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REPORT OF THE EXPERT MEETING ON WAYS TO ENHANCE THE PRODUCTION AND EXPORT CAPACITIES OF DEVELOPING COUNTRIES OF AGRICULTURE AND FOOD PRODUCTS, INCLUDING NICHE PRODUCTS, SUCH AS ENVIRONMENTALLY PREFERABLE PRODUCTS

Held at the Palais des Nations, Geneva
16 to 18 July 2001

CONTENTS

Chapter		Page
I.	Recommendations	2
II.	Chairperson's summary	6
III.	Organizational matters	12
Annex		
I.	Attendance	14

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Chapter I

RECOMMENDATIONS

1. Individual experts put forward views and policy options for Governments, the international community and UNCTAD on ways to enhance developing countries' capacities for the production and export of agriculture and food products, including niche products, such as environmentally preferable products. The following text summarizes the experts' conclusions and recommendations and the related diversity of views.

A. Recommendations at the national level

2. Governments should support the development of the agriculture sector, in particular the production of high-value products, improvement of quality and better participation in global value chains, by:

- Taking fiscal and other measures to attract investment and technologies into new areas;
- Taking into account the views of professional associations;
- Identifying appropriate policies to address the deterioration of terms of trade between agricultural and manufactured products;
- Providing WTO-acceptable support to the agriculture sector, in particular for research and development and quality assurance;
- Defending national and business interests strongly at the WTO;
- Assisting in the dissemination of market information;
- Facilitating the development of clusters that strengthen linkages in the economy;
- Putting in place legal and institutional structures for new forms of finance, such as warehouse receipts, and encouraging banks to provide finance to diversifying enterprises.

3. Recognizing that the share of organic products in agricultural markets is generally not over 2 per cent, national Governments, in cooperation with farmers' associations, non-governmental organizations and other stakeholders, should play a proactive role in promoting organic agriculture and trade, in particular by:

- Increasing awareness of the environmental, economic and other benefits (such as livelihoods and living conditions) of organic agriculture and non-wood forest products, as well as trading opportunities for developing countries. Local electronic media can be involved in this process;
- Identifying and recognizing civil society organizations of the local organic community and facilitating their participation in a national multi-stakeholder committee with the Government to develop organic policies and a national plan for the organic sector;

- Promoting research into and development of local organic production systems and locally adapted, high-quality disease-resistant seeds and planting materials, bio-control agents and fertilizers;
- Providing training and technical advice on organic farming practices through agricultural extension services and developing information networks among farmers;
- Designing, implementing and enforcing national and regional standards, based on international standards such as the Basic Standards of the International Federation of Organic Agriculture Movements (IFOAM);
- Promoting certification infrastructure, including local certification bodies, in particular where there is a potential for significant organic production and exports;
- Promoting suitable marketing strategies and partnerships;
- Supporting the development of a domestic market for organic agricultural products;
- Where possible, providing financial support to farmers, particularly during conversion periods;
- Introducing supportive government policies;
- Identifying and helping to develop the proper subsidies or incentives to support the development of strong organic production systems in developing countries, especially to assist farmers in converting to organic production.

4. The business sector should:

- Emphasize professional organizations and cooperation among producers and exporters;
- Strengthen cooperation between such organizations and the Governments by creating effective and credible pressure groups;
- Go beyond the provision of products and become providers of ideas and services;
- Combine efforts to have sufficiently large and regular shipments in order to meet importers' requirements and to improve access to finance;
- Pay due attention to local and regional markets;
- Participate in organizing and funding research and technological improvements, particularly for the post-harvest stage;
- Adopt "codes of conduct/practice" to ensure quality, and assure importers with regard to the latter;
- Consider using alternative trading channels such as fair trade organizations.

B. Recommendations to the international community

5. The international community should support the efforts of developing countries, particularly least developed countries (LDCs), to develop supply capacities and improve market access and market entry conditions by:

- Eliminating all protectionist barriers to trade;
- Simplifying and harmonizing standards, based on international standards;
- Assisting producers and processors in meeting standards and quality requirements;
- Providing financial and technical support to research and extension, as well as to the procurement of high-quality inputs;
- Supporting capacity building in all areas, from production to marketing and finance;
- Including stakeholders in designing assistance;
- Providing financing directly to the private sector, including for venture capital;
- Supporting participation in trade fairs;
- Increasing official development assistance to agriculture and strengthening the resources of the Common Fund for Commodities in order to increase its role in enhancing the productive capacities of developing countries.

6. In the follow-up to the Third United Nations Conference on the Least Developed Countries, full attention should be paid to working towards the objective of providing duty- and quota-free access for LDCs,[1] such as under the European Union's "Everything But Arms" initiative, and to "Supporting LDCs' efforts to develop and take advantage of niche markets for goods such as ... organic products and handicrafts, as well as cultural products" (paragraph 68(bb) of the Programme of Action).

7. The international community should support the efforts of developing countries, particularly LDCs, to derive economic, social and environmental benefits from organic agriculture and trade, in particular by:

- Assisting developing countries in designing national and regional organic standards, based on international standards such as the IFOAM Basic Standards and the Codex Alimentarius Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods;
- Promoting and facilitating a framework of harmonization, including the IFOAM Basic Standards and Accreditation Programme, which establish a framework for mutual recognition between IFOAM-accredited certifiers;
- Promoting market research on issues such as trends in supply and demand in international markets, marketing channels, certification and quality requirements to be met in importing countries;

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[1] Paragraph 68(h) of the Programme of Action for the Least Developed Countries for the Decade 2001-2010 reads as follows: "Improving preferential market access for LDCs by working towards the objective of duty-free and quota-free market access for all LDCs' products. This will apply in the markets of developed countries. Improvements in market access for LDCs should be granted on a secure and predictable basis. They should be combined with simplified rules of origin that provide transparency and predictability so as to help ensure that LDCs benefit from the market access granted, and multi-donor programmes, such as the Integrated Framework for Trade-related Technical Assistance (IF), to upgrade LDCs' production and export capacities and capabilities. Consideration should also be given to proposals for developing countries to contribute to improved market access for LDCs' exports".

- Reducing costs of certification of organic producers in developing countries by (i) setting up local certification systems, (ii) promoting smallholder certification, and (iii) reducing the costs of international accreditation for certifiers in developing countries;
- Ensuring transparent and simple rules and requirements governing imports of products for sale in their organic markets, including through the application of the concept of equivalence;
- Providing information on organic standards and regulations, market opportunities and other factors relevant to exporters from developing countries;
- Including non-wood forest products in existing labelling and certification systems for organic products;
- Facilitating technical assistance, including under the Agreement on Technical Barriers to Trade and the Agreement on the Application of Sanitary and Phytosanitary Measures, to help developing countries meet organic standards in international markets as well as to participate in international standard-setting bodies. Such schemes should include non-wood forest products;
- Extending benefits to organic agricultural products in preferential trade arrangements;
- Carefully examining the implications, if any, for developing countries of subsidies to assist farmers in converting to organic production and in post-conversion support programmes;
- Identifying and helping to develop the proper subsidies or incentives to support the development of strong organic production systems in developing countries, especially to assist farmers in converting to organic production.

C. Recommendations to UNCTAD

8. UNCTAD, in cooperation with the International Trade Centre (ITC), the Food and Agriculture Organization of the United Nations (FAO), IFOAM, the United Nations Environment Programme (UNEP) and other relevant institutions, should contribute to the development of the supply capacity of developing countries and assist them in deriving advantage from growing markets for organic products, non-wood forest products etc., in particular by:

- Providing market information and analysis;
- Organizing capacity-building workshops by product groups;
- Undertaking country surveys to identify production and export opportunities;
- Implementing pilot projects to assist in the design and execution of diversification programmes;
- Implementing pilot projects on innovative financing such as warehouse receipts;
- Carrying out analysis and promoting policy dialogues on trade and sustainable development aspects of organic agriculture;

- Examining ways to promote the practical application of the concept of equivalence and mutual recognition between governmental and private sector standards;
- Promoting national and regional capacity-building projects, in particular in the framework of the UNEP-UNCTAD Capacity Building Task Force on Trade, Environment and Development (CBTF), to support interested developing countries in promoting trading opportunities for environmentally preferable products;
- Further developing the TRAINFORTRADE 2000 Module on Trading Opportunities for environmentally friendly products;
- Examining market strategies, including through the use of electronic commerce;
- Promoting and facilitating the creation of local and regional certification bodies in developing countries, particularly LDCs.

Chapter II

CHAIRPERSON'S SUMMARY

1. Experts put forward views and policy options for Governments, the international community and UNCTAD on ways to enhance developing countries' capacity for the production and export of agriculture and food products, including niche products, such as environmentally preferable products. The following text summarizes those views and reflects the diversity of opinions expressed.

A. Trends in world trade in food and agricultural products

2. Agricultural production in developing countries has grown faster than in developed countries; however, much of the increased production in the former was domestically consumed, while in the latter it was mostly directed to export markets. While world trade value has increased 15 times since the early 1970s total agricultural trade value has increased only seven-and-a-half times. The decline in relative prices of commodities and a "double counting" of trade in manufactured products have both contributed to this difference in growth rates. A relatively high proportion of value added has been created domestically in agriculture compared with other sectors, which are much more dependent on imported inputs.

3. The share of developing countries in traditional commodity markets has declined by about a fifth since the early 1970s and only a few developing countries have benefited from the growth in dynamic products, such as vegetable oils, fish, vegetables, cut flowers and poultry. Some experts concluded that a certain correlation seemed to exist between subsidized products and loss of market shares of developing countries. Other experts considered that such a conclusion was unsubstantiated.

4. Several experts pointed out that there had been increasing import penetration in developing countries, in particular by developed country producers, and that this had led to a significant deterioration of the trade balance of developing countries as regards food, particularly in least developed countries (LDCs). Some experts pointed out that intra-developing country trade in agricultural and food products had intensified and that an increasing number of developing country producers had gained market shares in other countries, particularly in neighbouring developing countries.

5. As regards organic food and beverages, the representatives of the International Trade Centre UNCTAD/WTO pointed out that organically grown products currently accounted for approximately 1-2 per cent of total food sales in most developed countries, and amounted to about US$ 17.5 billion per year. The size of the organic market had grown substantially over the last decade. Although no systematic production and trade statistics on organic products were available, estimates suggested that certified organic production existed in more than 140 countries, including 90 developing countries, 20 of which were LDCs. Global demand was forecasted to increase annually by 15-20 per cent in the medium term. Fresh fruits, tropical

beverages, spices, grains and sugar appeared to be among the most promising products for developing country producers and exporters.

B. Production and export constraints

6. Recent changes in market structures for food products have led to a number of production and export constraints for developing countries. Those constraints concerned, at the national level in developing countries, the liberalization of the agricultural sector and a more important role for foreign companies in local markets, enhanced competition from imported products and increased price risk exposure for small farmers and local companies. At the international level, there is a growing concentration of trade and more emphasis on product quality, brands and marketing, which reduce the importance of cost differentials, thus making it difficult for many low-cost developing country producers to access developed country markets. It was underscored that there is a globalization of consumption patterns and that supermarket chains have increasing importance in all markets. Although this creates unprecedented opportunities for market entry, only those exporters whose products meet strict quality requirements and who can ensure regular supplies of sufficient volumes can benefit. Also, developing country producers capture only a very small and declining share of food retail prices.

7. Most experts were of the view that limited technical and managerial skills, expensive and inadequately supplied inputs, insufficient research and development (e.g. with regard to better seeds and planting materials), slow development of new products, and lack of finance and organization could be regarded as key general production constraints in many developing countries. It was highlighted that international support to agriculture in developing countries had significantly declined over the last 20 years. Agriculture remains the most protected sector in many countries. Besides much higher tariff barriers, there are quota restrictions, tariff escalation and a plethora of non-tariff barriers. In addition, agricultural support measures and export promotion policies in developed countries contribute to trade distortions and dampen international prices, to the detriment of developing country producers.

8. According to many experts, developing country producers of organic products face several sets of potential constraints related to conversion, production, marketing and government support policies. Constraints on conversion to certified organic agriculture in developing countries include uncertainty about markets and price premiums. Certification costs, technical requirements and sanitary and phytosanitary (SPS) measures might act as obstacles to exports of organic food products from developing countries. Furthermore, organic vegetable and fruit markets tend to rely largely on locally produced food. Production-related constraints include high initial investment, possible fall in yields, increased labour requirements, invasion by pests, uncertain ownership of land, different organic agriculture practices in various agro-ecological zones and insufficient availability of organic fertilizers. Market-related constraints pertain to the small size of export markets and lack of domestic markets, stringent standards in external markets, uncertain and falling price premiums, inadequate production and market-related information and the fact that only part of certified

products may be sold in organic markets, thus effectively reducing the benefits to organic producers. Institutional and policy-related constraints include lack of locally based certifying infrastructure and inadequate general government support.

9. Experts highlighted that fact that international organic markets have very high standards on quality, packaging and certification, which are normally difficult for small and dispersed developing country producers to meet. Markets may also need large quantities at short notice, a requirement which is difficult to meet, especially for small producers. Transit and certification costs are high and may drive away small producers. In general, high certification costs were considered a serious handicap for organic producers/exporters in most developing countries. One expert recalled the proposal about providing financial support for meeting the certification costs of LDC producers of organic products. Some experts stressed in this regard that the multiplicity of certification schemes implied that producers might have to pay for a number of certificates, a task which was often beyond the means of small producers. Some experts expressed concern that the multiplicity of standards, including those on organic agriculture, and requirements in certain national standards, initially on a voluntary basis, could result in trade barriers – for example, fresh products transported by air would not qualify as organic according to the organic standard of one certification body. Several experts therefore underscored the need for more transparency in standard setting, a consistently science-based approach and notification in accordance with SPS and technical barriers to trade (TBT) procedures.

10. Many experts pointed out that the changing concept of product quality, which included production and processing methods, logistics, food safety concerns and environmental requirements as well as branding, and the related importance of information and linkages with buyers, had become a serious constraint for many developing country producers and exporters.

C. Quality and product differentiation issues

11. All experts were of the view that, to preserve and expand market shares, developing country producers would have to meet ever-increasing number of stringent quality standards. It was mentioned in this regard that Kenya, for instance, had set up a successful Plant Health Inspectorate Service (KEPHIS) for monitoring SPS-related product quality.

12. According to many experts, product differentiation is one of the strategies to tap opportunities offered by changes in food habits and changing consumer tastes. For instance, many different cuts can be made from chicken, each of them being the subject of strong demand in different markets. Also, in addition to guaranteeing higher revenues for small-scale producers in developing countries, fair-trade labelling has facilitated the capturing of new markets. The combination of fair-trade and organic labelling could offer further opportunities.

13. Several experts pointed out that developing country exporters might benefit from identifying speciality and niche products, for which markets were smaller and large companies' economies of scale were not very important in determining competitiveness. Examples included exotic fruits and vegetables, ethnic products and non-wood forest products. As far as organic products were concerned, export opportunities existed in areas where organic produce was out of season in developed countries or did not compete with production in those countries, and for products of which there were shortages in developed country markets.

D. Organic food and agricultural products

14. Experts highlighted the fact that organic products had to be certified by a recognized body in importing countries. Minimum certification requirements included one full inspection per year, full implementation of standards, conversion periods, and identification of product flows and audit procedures. These requirements could pose serious challenges for developing country producers. In the absence of local certification bodies, developing country producers had to rely on certification by international inspectors, which was costly. Standards were often not known or difficult to adapt to tropical climatic conditions. Furthermore, limited technical expertise and advice were available. Small farmers did not generally keep records, a problem compounded by illiteracy in some regions.

15. According to many experts, a key question was how to reduce the costs of certifying smallholders in developing countries. Umbrella certification of groups of farmers was considered a promising avenue. The traditional approach was to use spot checks, but these reduced confidence in the products. A more successful approach might be based on a rigorous internal control system, whereby an organic monitoring department was introduced into existing group structures. For such an approach to work, a number of requirements had to be met: (i) the creation of standards that were clearly understood by all group members; (ii) qualified internal inspectors who were responsible to the group as well as to external certification and inspection agencies; (iii) procedures for inspection, evaluation, sanctions and rectification; (iv) adequate documentation systems; and (v) proper monitoring and guidance by certification agencies.

16. Most experts were of the view that there was an urgent need to harmonize organic standards and regulations. Currently, a multitude of standards existed at the international, regional and national levels, many of which were based on the Basic Standards of the International Federation of Organic Agriculture Movements (IFOAM) and the Codex Alimentarius Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods. Negotiating bilateral mutual recognition agreements between countries was an extremely time-consuming process. A more efficient alternative could be recognition of the IFOAM Accreditation Programme, which evaluated the qualifications of certification bodies and also established a framework for mutual recognition between IFOAM accredited certifiers.

17. There was a consensus among the experts that Governments needed to develop a complementary set of policies and institutions to support the organic agriculture sector.

18. Many experts pointed out that conventional farming methods tended to impoverish the soil over time. Conversely, organic farming practices revitalized the soil, enhanced its water retention and prevented soil erosion. They also increased farmers' self-reliance, reducing their dependence on external chemical inputs.

19. UNCTAD case studies have shown that many developing countries have traditionally used little or no agro-chemicals, but the process of modernization and the need to feed increasing populations have led to increased use of chemicals. In recent years, however, the limitations of agriculture based on chemical use and high irrigation have become apparent and there has been a resurgence of interest in organic agriculture. In many developing countries, organic agriculture is considered an option, affordable to smallholders, for improving farm efficiency and profitability, as compared with farms under traditional management.

20. Some experts stressed that the relationship between the narrow objectives of organic agriculture and other policy objectives was important. Food security was an overriding priority in developing countries. In some cases, food security requirements might make it difficult to convert large areas of land to organic production. In such cases, agricultural policies could focus on reducing the use of chemical fertilizers and pesticides. In this regard, several experts emphasized that there was a need for a holistic view of agriculture in the light of the huge increase in population. Divergent views were expressed, however, about how to feed 11 billion people in 2030. Some experts maintained that a second green revolution to increase yields was needed, probably through biotechnology. Others noted that organic standards explicitly excluded the use of genetically modified organisms. A number of experts argued that fighting hunger was not just a matter of increasing yields: it was also important to enhance the diversity, longevity and sustainability of the world's agricultural system, including changing dietary habits. Many experts pointed out that not all agricultural systems needed to be organic. Several studies had shown that modern agricultural systems could cause serious health and environmental problems. Therefore, it was necessary to reduce agro-chemical use in conventional agriculture by adopting integrated methods of agricultural production, and to bring parts of agriculture as close as possible to organic agriculture. Agricultural practices aimed at reducing the use of chemical fertilizers and pesticides, while not fully "organic" as defined by IFOAM standards, might help increase the yields and quality of agricultural products.

21. It was noted that Governments in developing countries were not providing subsidies to organic agriculture, but in some cases they were starting to promote awareness raising, research and training. Institutional support included local IFOAM organizations, non-governmental organizations (NGOs), farmers' associations and export promotion bodies. It was further noted that international support (by Governments and NGOs) for production, certification and marketing played a key role, in particular in LDCs.

22. A number of experts pointed out that problems of access to markets for organic products were important for developing country exporters. Those problems included standards set by governmental and private bodies, certification, subsidies and preference for locally produced organic products. Trade policy issues included TBT- and SPS-related technical assistance, harmonization of standards, equivalence, subsidies, non-trade concerns and tariff-rate quotas (in the Agreement on Agriculture), and possible trade preferences. As regards the latter, some experts referred to the option of granting special quotas for organic produce within tariff-rate quota systems and the inclusion of organic products in the Generalized System of Preferences.

Chapter III

ORGANIZATIONAL MATTERS

A. Convening of the Expert Meeting

23. The Expert Meeting on Ways to Enhance the Production and Export Capacities of Developing Countries of Agriculture and Food Products, Including niche Products, Such as Environmentally Preferable Products was held at the Palais des Nations, Geneva, from 16 to 18 July 2001.

B. Election of officers

(Agenda item 1)

24. At its opening meeting, the Expert Meeting elected the following officers to serve on its bureau:

Chairperson: Ms. Amina Mohamed (Kenya)
Vice-Chairperson-cum-Rapporteur: Mr. Eberhard Hanser (Germany)

C. Adoption of the agenda and organization of work

(Agenda item 2)

25. At the same meeting, the Expert Meeting adopted the provisional agenda circulated in document TD/B/COM.1/EM.15/1. The agenda for the Meeting was thus as follows:

1. Election of officers
2. Adoption of the agenda and organization of work
3. Ways to enhance the production and export capacities of developing countries of agriculture and food products, including niche products, such as environmentally preferable products
4. Adoption of the outcome of the Meeting

D. Documentation

26. For its consideration of the substantive agenda item, the Expert Meeting had before it a background note by the UNCTAD secretariat entitled:

> "Ways to enhance the production and export capacities of developing countries of agriculture and food products, including niche products, such as environmentally preferable products" (TD/B/COM.1/EM.15/2).

E. Adoption of the outcome of the Meeting

(Agenda item 4)

27. At its closing meeting, the Expert Meeting authorized the Rapporteur to prepare the final report of the Meeting under the authority of the Chairperson.

Annex

ATTENDANCE *

1. Experts from the following States members of UNCTAD attended the Meeting:

Angola
Australia
Austria
Bangladesh
Barbados
Belgium
Benin
Bolivia
Burkina Faso
Burundi
Cambodia
Chile
China
Comoros
Costa Rica
Cuba
Democratic People's Republic of Korea
Democratic Republic of the Congo
Dominican Republic
Ecuador
Egypt
El Salvador
Ethiopia
Finland
France
Gabon
Germany
Ghana
Guinea
India
Indonesia
Italy
Japan
Jordan
Kazakhstan
Kenya
Kyrgyzstan
Lao People's Democratic Republic
Lesotho
Libyan Arab Jamahiriya
Madagascar
Mauritius
Morocco
Netherlands
Niger
Panama
Peru
Philippines
Russian Federation
Rwanda
Sao Tome and Principe
Saudi Arabia
Senegal
Sri Lanka
Sweden
Switzerland
Togo
Trinidad and Tobago
Turkey
Uganda
United Kingdom of Great Britain and Northern Ireland
United Republic of Tanzania
United States of America
Vanuatu
Venezuela
Viet Nam
Yemen
Yugoslavia

* For the list of participants, see TD/B/COM.1/EM.15/INF.1.

2. The following intergovernmental organizations were represented at the Meeting:

Arab Organization for Agricultural Development
Common Fund for Commodities
European Community
South Centre

3. The following specialized agencies and related organization were represented at the Meeting:

Food and Agriculture Organization of the United Nations
World Meteorological Organization
World Trade Organization

4. The Economic and Social Commission for Western Asia and the International Trade Centre UNCTAD/WTO were represented at the Meeting.

5. The following non-governmental organizations were represented at the Meeting:

General Category

Exchange and Cooperation Centre for Latin America
International Center for Trade and Sustainable Development
World Wide Fund for Nature International

6. The following special invitees attended the Meeting:

Mrs. Franziska Staubli Asobayire, Project Manager, Swiss Import Promotion Programme (SIPPO)
Mr. Paul Osborn, Editor, Spore Consortium, Uithoorn

7. The following panellists attended the Meeting:

Mr. Rainer Bächi, Director, Institut für Marktölogie (IMO), Sulgen, Switzerland
Mr. Jean-Marc Roch, Bioroch Sàrl, Ballens, Switzerland
Ms. Paola Ghillani, Director, Max Havelaar Foundation, Basel. Switzerland
Mr. Lukas Kilcher, FiBL, Head, International Cooperation, Frick, Switzerland
Ms. Rachel Ntoyai, Plant Inspector, Kenya Plant Health Inspectorate Service (KEPHIS), Kenya
Ms. Suzanne Vaupel, Vice President, International Federation of Organic Agriculture Movements, Sacramento, United States of America
Mr. Johann Zueblin, Quality Management, Migros-Genossenschafts-Bund, Zurich, Switzerland

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REPORT OF THE EXPERT MEETING ON ENERGY SERVICES IN INTERNATIONAL TRADE: DEVELOPMENT IMPLICATIONS

Held at the Palais des Nations, Geneva
23 to 25 July 2001

CONTENTS

Chapter **Page**

I. Outcome of the Expert Meeting 2

II. Chairperson's summary 7

III. Organizational matters 22

Annex

Attendance 23

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Chapter I

ENERGY SERVICES IN INTERNATIONAL TRADE: DEVELOPMENT IMPLICATIONS

Outcome of the Expert Meeting

1. The Expert Meeting on Energy Services in International Trade: Development Implications was held in Geneva from 23 to 25 July 2001. In accordance with the Trade and Development Board's decision taken at its twenty-fourth executive session, the outcome of the Meeting will be circulated by the secretariat to the member States with a request for policy comments. It will subsequently be transmitted to the sixth session of the Commission on Trade in Goods and Services, and Commodities, which will make recommendations on actions to be taken by member States and UNCTAD.

2. The paragraphs below set out experts' suggestions for actions, which could be considered under the headings of (a) policy instruments and strategies, (b) international trade negotiations, (c) analytical work, and (d) follow-up actions. Not all the views expressed were necessarily shared by all the experts, and they are recorded without prejudice to any official positions that may be taken by Governments hereafter.

3. The experts noted the crucial role that energy plays with regard to sustainable development and the very limited access that important segments of people in developing countries have to commercial energy. They considered that the lack of access to modern and sustainable energy is a major cause of environmental and health hazards in vast areas of the developing world and a major impediment to quality of life, while recognizing both the fundamental role of energy as the largest component of gross domestic product in several countries and the very rapid changes taking place in that sector. Moreover, they recognized that these changes fundamentally underlie economic competitiveness, and that building domestic capacities is fundamental to the next stage of exporting value-added energy services, especially for developing countries.

A. Policy instruments and strategies

4. The experts made, *inter alia,* the following suggestions for consideration by Governments:

5. Action is needed to promote wider and, whenever possible, more efficient and affordable access to energy for people and industry, especially in many developing countries. Among other means, this can be achieved through regulatory reform. Investment in the energy sector is a precondition for achieving the goal of making energy available to the poor, and thus the necessary environment to attract domestic and foreign investors should be established. Multilateral, regional and bilateral financial resources should be made available to that end whenever possible. The energy services sector should play an important role in countries' overall economic growth.

6. Measures are needed to increase the competitiveness of suppliers of energy services, particularly in developing countries, and to foster the development of the networks of small and medium-sized enterprises (SMEs) so that those suppliers can increase their share in the energy services market, and provide a source of innovation. Both the regulatory regime and the physical infrastructure may need to be developed and/or strengthened.

7. Strategic alliances between local and foreign firms and between large companies and SMEs should be encouraged in order to enable the identification of market opportunities. The participation of local knowledge and talent should serve to build trust and long-standing business relationships. Large companies' purchasing practices can provide a stimulus for SMEs.

8. Progressive liberalization of market access conditions for energy services should be pursued, taking into account differences among countries in their level of development, regulatory frameworks and market realities. The process of liberalization should be carried out under the appropriate regulatory framework with a view to ensuring the achievement of national policy objectives, including public services obligations, and the establishment of fair competition conditions. Liberalization should not necessarily be equivalent to deregulation. It should entail re-regulation in order to ensure the attainment of the above-mentioned goals.

9. Transfer of technology in the energy sector is essential. However, the technology that is transferred should be appropriate to the situation of the receiving country in terms of level of development and environmental situation. Access to technology should be affordable, and may include licensing or other procedures relating to its use. Local firms should contribute to making foreign technology suited to domestic conditions and benefit from technological spillover.

10. Renewable energies may help in addressing shortages of electricity, especially in rural areas. An assessment of their affordability, sustainability and appropriateness may be suitable before opting for this alternative.

11. Support should be given to energy services companies, especially SMEs in developing countries, including through the creation of local venture funds. Special loans should be made available to support the development of local entrepreneurship and address cash-flow shortcomings.

12. Temporary admission of specialized equipment could facilitate the provision of energy services. If this is provided by countries, they should pursue non-discriminatory treatment of local and foreign energy services suppliers in order to put them on an equal competition basis.

B. International trade negotiations

13. Experts expressed the view that multilateral and regional negotiations on energy services should be pursued in recognition of the role that energy plays in development and taking into account the development policies and objectives of developing countries.

14. Experts addressed a number of issues that are under discussion in the General Agreement on Trade in Services (GATS) negotiations in the light of the current negotiating proposals. These included proposals for clarification of the scope of energy services and improvement of current classification, including through a possible "checklist" which could be used as a tool to facilitate negotiations in the World Trade Organization (WTO) and at the regional level. However, the importance of preserving the legal certainty of the Members' commitments under the current classifications was emphasized. Also, it was stressed by some that classification should take into account the specificity of different energy markets in terms of differences in energy sources and diversity in regulatory frameworks. Moreover, a discussion was held on the suitability of developing an instrument specific to the energy services sector and comparable to the Reference Paper on Basic Telecommunications, and the possible content of such an instrument (e.g. development concerns to link in a clear manner energy services and development – including the achievement of public services goals – and promotion of competition and of foreign investment in the energy sector consistent with development goals). It was recognized that some experts had expressed different positions with respect to these issues. Also, the need to take into account in that regard the overall context of the WTO negotiations was noted.

C. Analytical work

15. In most energy-related studies the energy services component has been neglected, and the ongoing international negotiations on energy services would be greatly facilitated by analytical work in this area and by data about market reality.

16. Experts identified a number of areas for further study and analysis, with the understanding that the Commission on Trade in Goods and Services, and Commodities may select the priority areas where UNCTAD may carry out additional analytical work according to its mandate, namely:

(a) Analysis of the main structural characteristics of the energy services markets; key aspects of technological change; and the role of international and national standards and regulations on trade in energy services. These studies could contribute to the assessment of trade in services that the WTO Council for Trade in Services is carrying out at present;

(b) National experiences with structural reform of the energy sector in developing countries, and potential difficulties and opportunities for domestic energy services suppliers resulting from it; analysis of the impact of energy-related subsidies on development and trade;

(c) Compilation and analysis of a list of successful experiences of developed and developing countries in the energy sector from the investment, technology, enterprise development and other viewpoints. This could include the role of SMEs in the energy services sector, and possible disciplines to strengthen them and further their market participation;

(d) Analysis of the main issues as identified in the current GATS negotiating proposals on energy services and their possible implications for developing countries, taking into account the overall framework of WTO disciplines and the ongoing services negotiations;

(e) Analysis of issues arising from cross-border transit of energy.

D. Follow-up actions

17. Experts identified a number of areas where further action is needed. Among them, the Commission on Trade in Goods and Services, and Commodities may select the priority areas where UNCTAD may take action according to its mandate, namely:

(a) Organizing workshops and seminars on different issues, such as the role of SMEs and cooperation schemes in the energy services sector. These activities could bring together government officials, trade negotiators, representatives of the business community and other relevant stakeholders to increase their awareness about the trade and development aspects of energy services, exchange information about best practices in the sector, and identify emerging opportunities for suppliers in developing countries;

(b) Exploring the interest of the Organization of the Petroleum Exporting Countries (OPEC), the Energy Charter Secretariat and other relevant organizations in carrying out studies, in cooperation with UNCTAD, in the area of energy services with a specific focus on development and trade, and their potential for doing so;

(c) Exploring the interest of regional development banks in developing, in cooperation with UNCTAD, methodological tools for assessing the impact of investment and production in the energy services sector on economic growth, and their potential for doing so;

(d) Continuing to provide, in accordance with the UNCTAD Plan of Action agreed at UNCTAD X, technical assistance and policy advice through relevant mechanisms to producers and users of oil and gas in developing countries, in particular in the context of implementing privatization and liberalization schemes, aimed at protecting Governments as well as private users and consumers from the risks of high price volatility.

18. The experts welcomed the kind offer made by the representative of the Economic and Social Commission for Western Asia (ESCWA) to host a meeting in Beirut (Lebanon) to continue the discussions on some of the issues raised during the course of the Expert Meeting.

Chapter II

CHAIRPERSON'S SUMMARY

1. The informal discussions opened with the presentation of a paper prepared by the UNCTAD secretariat for the Expert Meeting.

Ms. Simonetta Zarrilli, Legal Officer, Trade Negotiations and Commercial Diplomacy Branch, Division on International Trade in Goods and Services, and Commodities, UNCTAD

2. Energy is central to achieving the interrelated economic, social and environmental aims of sustainable human development, and energy services play a crucial role in providing efficient access to energy in support of development. They also constitute the value added in the energy chain. Energy services include the traditional services (e.g. exploration, extraction, drilling, construction services and energy transmission) and a variety of new services (e.g. operation of power pools, energy trading and brokering, and energy management) that are emerging from the structural reform of the sector.

3. Developing countries are thus faced with the challenge of, on the one hand, achieving more reliable and efficient access to energy, and on the other hand, obtaining a greater share of the energy "business". The pursuit of both goals requires access to knowledge, expertise, technology and managerial know-how.

4. In the framework of the ongoing multilateral negotiations on services, six proposals aimed at further liberalization of the energy services sector have been tabled. A series of issues would seem to confront developing countries in those multilateral negotiations, namely classification, and possible additional provisions to be attached to the liberalization commitments.

5. Individual experts then made presentations in their own capacity on three broad themes: (a) sectoral markets for energy and energy services; (b) energy services in the General Agreement on Trade in Services (GATS) and the ongoing debate in the World Trade Organization (WTO); and (c) implications for developing countries. Presentations were followed by debates in which other experts contributed by sharing experiences and making comments.

A. Sectoral markets for energy and energy services

Mr. Norman Anderson, President and Chief Executive Officer, CG/LA Infrastructure, Washington, DC, United States

6. This presentation was divided into three parts – the technological revolution; the new industry structure; and the opportunities for developing countries – and focused mainly on electricity.

7. The availability of electricity is the precondition for most economic activities, and electricity is a key production factor with regard to economic competitiveness. A significant feature of the power sector is that venture capital investment supporting innovation exceeds similar investment in the information technology industry during its peak years.

8. The technological revolution, including digital technology, and the structural reform of the energy sector are the two elements that have made it possible both to develop new "intelligent" devices to generate and distribute electricity, and to make them available to consumers. The power sector has become very innovative and dynamic, competition is increasing and, as a result, efficiency is growing. However, the continuing capacity of the power sector to satisfy the rising demand for energy will depend on appropriate investments in research and development.

9. The next breakthrough to increase efficiency and productivity in the power sector will most likely happen in transmission. Great improvements are possible and appropriate since 40 per cent of the electricity put into the wires does not reach the end-users.

10. To be active in the sector and provide competitive services, private companies – both large firms and small and medium-sized enterprises (SMEs) – must have access to finance, knowledge and technology. Since growth in electricity demand is expected particularly in developing countries, the latter will be in a good position to satisfy demand if those preconditions are satisfied.

11. In order to increase the efficiency of the power sector, Governments should provide tax credits, make available local venture funds, remove trade barriers such as tariffs to allow new entrants into the market, and support innovation.

Professor Thomas W. Wälde, Director, Centre for Energy, Petroleum and Mineral Law and Policy, Dundee, Scotland, United Kingdom

12. Liberalization of energy services is closely linked to the liberalization of trade in energy goods. Notwithstanding the existence of a huge potential for cross-border electricity trade, in particular between developing countries, there are politically sensitive issues which represent a problem. Generally, powerful vested interests, which benefit from the existence of monopoly practices, offer strong political and economic resistance to the liberalization process.

13. A set of rules, focused on third-party access, cross-border transit and investment, is needed to ensure a more transparent and predictable regime for cross-border energy and energy services trade. The WTO Reference Paper on Basic Telecommunications Services may be taken as a model in developing a set of rules for cross-border electricity and gas trade.

14. Energy liberalization cannot be reduced to a North–South issue: it is very much a question of unlocking the synergies of the potential for energy trade between developing

countries. A transparent, predictable and depoliticized legal framework is the key to the promotion of South–South energy trade.

Mr. Christopher Melly, Program Manager, Services and Investment Division, International Trade Commission, United States

15. The three main research questions in the area of power market reform and international trade in services are: (a) What is regulatory reform? (b) How does it affect market conditions? (c) What are the implications for international trade?

16. Reform is the introduction of competition by encouraging new entrants. The main elements of reform are private participation, structural adjustments to control the market power of incumbents and open access to essential facilities.

17. Reforms affect market conditions by creating new market opportunities and expanding consumer choice. However, some impediments to free choice still remain.

18. Since reforms have encouraged international trade, the greatest trade barrier affecting the energy sector is the lack of reform. Here the GATS comes into play as a tool for encouraging international trade. There are two main shortcomings in the GATS concerning the energy sector – the classification of services in the sector, which is unclear and creates uncertainty about the coverage of specific commitments, and the effectiveness of market access. The concept of an annex or reference paper under Article XVIII should therefore be considered.

Mr. Carlos M. Añez, Cámara Petrolera y Alianza Empresarial, Venezuela

19. The potential benefits deriving from the development of oil-related services include enhanced capital formation, increased employment and exports, opportunities for the development of SMEs, and transfers of technology. There is no single market for oilfield services, but at least 35 specialized ones. The fragmented structure of the market for oilfield services must be taken into account in the WTO negotiation process. This subject is related to the crucial problem of agreeing a classification of energy services which would facilitate the scheduling of specific commitments. There are a number of important barriers to market entry faced by small domestic companies in the oilfield services sector, especially in their own domestic market. As access to international markets is crucial for domestic firms, action is needed on three fronts. First, national oil companies' purchasing practices should be modified to promote national supplier firms. Second, policy measures need to be implemented to create a fair and transparent context for competition within a legal and economic environment favourable to business. Third, specific capacity-building programmes have to be established.

Mr. Ramón Espinasa, Consultant, Inter-American Development Bank

20. The expert presented a scenario for oil trade and economic growth on the American continent over the next 15 years.

21. The Americas are the largest continent in terms of oil consumption and the second largest in terms of oil production. The United States is the third largest oil producer, and the foremost oil importer. United States oil imports are forecast to double over the next 15 years. Latin American and Caribbean (LAC) countries supply most oil imports to the United States and Canada.

22. The scenario assumes that the United States will experience an increased supply/demand gap, doubling its oil imports over the base 15-year period. In the meantime, it is expected that LAC countries will double oil production from 10 million to 20 million barrels per day. Two thirds of the increase in production in LAC countries will supply two thirds of the additional oil demand from the United States, and the LAC countries' quota in United States oil imports will reach half of the total.

23. If an increase of 10 million barrels per day is to be achieved, US$ 200 billion capital expenditure, US$ 20 billion operational expenditure and US$ 60 billion additional government expenditure will be required. Additional expenditure will be translated into overall economic growth through the multipliers of government expenditure and of the oil industry itself. The overall growth impact of these investments in LAC oil producers over the 15-year period will be of the order of 20 per cent of gross domestic product (GDP). Additional oil services are forecast to be US$ 54.4 billion, with a growth effect of 6 per cent.

Mr. Carlos Palacios Olivera, Organismo Supervisor de la Inversion en Energia (OSINERG), Peru

24. Peru is relatively well endowed with different kinds of energy sources (i.e. natural gas, hydroelectricity, liquids from natural gas, oil, coal and uranium). However, despite its endowments, it has traditionally been a net importer of hydrocarbons, which represent 60 per cent of domestic energy consumption. During the 1990s, Peru experienced a serious trade balance deficit due to increasing imports of hydrocarbons. At the same time, the existing power plants and grids proved to be completely inadequate to satisfy domestic demand.

25. To address these shortcomings, the Peruvian Government started in 1992 the implementation of a new energy policy which includes three main components: (a) disengagement of the State from commercial activities in the energy sector and opening of the sector to private operators; (b) assumption by the State of the role of regulator of commercial activities; and (c) provision of incentives to investors.

26. As a result of the implementation of the new energy policy, the Peruvian indicators of electrification and per capita consumption of energy are improving, positioning Peru in the

vanguard in Latin America. Moreover, energy firms are generating an increasing amount of fiscal revenue through the tax system.

Mr. José Eduardo Ustáriz Márquez, Viceministerio de Energía y Hidrocarburos, Bolivia

27. From 1985 onwards, under the Programme of Macroeconomic Stabilization, the Bolivian Government has been undertaking important policy reforms to restructure the energy sector. As a result of these reforms, it has transferred to the private sector oil-related upstream and downstream activities. Similarly, generation, transmission and distribution of electricity have been privatized. Therefore, since 1995 the State has assumed the functions of regulating energy operations and fixing prices, while being totally disengaged from commercial operations.

28. Bolivia is endowed with large reserves of natural gas, which are currently one of the main sources of foreign revenues. To benefit fully from these reserves, Bolivian enterprises have entered into joint ventures with foreign firms to build gas pipelines, especially the one linking Bolivia and Brazil. Moreover, Bolivia is very active in developing schemes for energy integration with other countries in the region. Other developments under way in Bolivia aim at diversifying the sources of energy and developing new value-added energy segments.

Debate

29. During the debate that followed it was noted that although the energy sector is difficult to regulate because of its strategic importance, it needs a clear legal framework to function properly. Countries which are liberalizing their energy market are at the same time re-regulating it: they are establishing new rules in areas where regulation remains appropriate.

30. It was noted that the energy sector has the potential to make a major contribution to the economic growth of all countries and to international trade. However, countries have to identify mechanisms for linking energy and development and ensuring that the energy sector contributes to their economic development. Leeway should be available for Governments to implement public policy objectives in that sector.

31. On the issue of technology, it was pointed out that foreign firms in developing countries that operate in the energy sector should transfer to the host country technology and management skill. However, it was also noted that the terms of the contracts and the commercial needs will ensure that the technology transferred is the most useful and appropriate. Technology transferred on a commercial basis is supposed to have spillover effects. Links between foreign companies and local SMEs should be strengthened in order to facilitate transfer of technology.

32. The recent power emergencies in California and Brazil were discussed. The lesson which can be drawn from these is that before creating a new framework for the energy sector,

each country has to study carefully the features of its market and the related needs. The possibility of adopting solutions existing in other countries is limited since conditions vary greatly between countries. In the Brazilian and Californian cases, however, innovative solutions are being developed to respond to the energy crisis.

33. Experts suggested a number of topics for future analytical work in the energy field and follow-up actions. These are listed in the Outcome of the Expert Meeting.

B. Energy services in the GATS and the ongoing debate in the WTO

Ms. Jasmin Tacoa-Vielma, Legal Officer, Trade in Services Division, WTO

34. There is no agreed definition of the term "services", nor is there a classification of services sectors under the GATS. During the Uruguay Round and subsequently, most WTO Members have used the WTO Secretariat's Sectoral Classification List contained in document W/120, which is non-binding and based on the United Nations Central Product Classification (CPC) and its explanatory notes, as a tool to enter their commitments under the GATS. The lack of an agreed services classification for GATS purposes has prompted some WTO Members to seek clarification in this area in the ongoing services negotiations.

35. Given the ample use of the W/120 list by Members, and the fact that commitments entered are legally binding, the WTO Committee on Specific Commitments (CSC) has been conducting an examination to assess whether there is a need to revise the list. In this context the classification of energy services has been identified as an area where further work is necessary, as the W/120 lacks a separate category for the sector. There are three main problems with the way in which the W/120 list addresses the energy sector that are frequently cited by trade negotiators: (a) only three activities are identified; (b) "other" related services are covered under various sectors in the W/120 list; and (c) possible new "energy services" may not be covered.

36. The deliberations in the CSC continue, as discussions have shown a diversity of views. One key question for WTO Members is to what extent it would be desirable and viable to attempt a multilaterally agreed definition of the energy sector, whether through a revision of the W/120 list or otherwise, for the coming negotiations on commitments.

Ms. Josée de Menezes, Trade Policy Analyst, Services Trade Policy Division, Department of Foreign Affairs and International Trade, Canada

37. The energy services sector is important for the development of all countries. In this context, a proposal was submitted by Canada in the framework of the ongoing GATS negotiations which focuses on the oil and gas services. It builds on the premise that the CPC is important for the legal stability of commitments. Discussions on classification are still ongoing, including with the purpose of distinguishing between what is a good and what is a service in the energy sector.

38. SMEs are operating in the energy sector alongside large companies. Relevant in this respect is another GATS negotiating proposal introduced by Canada in the area of SMEs. Transparency is an issue of particular importance to SMEs, since smaller companies cannot respond as quickly as large ones to regulatory changes; hence another GATS negotiating proposal tabled by Canada – on transparency – is relevant in this context.

39. Among the obstacles identified in the oil and gas sector are those facing the entry and stay of professionals. In this connection an additional proposal covering Mode 4 of services supply was tabled by Canada in the WTO as a horizontal issue. The Canadian proposal on oil and gas services is clear on two things: it does not address the issue of ownership of natural resources, but focuses on improving services suppliers' access to foreign markets; and it does not seek to create an unregulated regime.

40. Further liberalization of the energy services markets could help expand the use of environmentally friendly technologies and increase the transfer of skills. Canada's proposal makes reference to the possible use of a checklist of energy services as an aide-mémoire to help negotiators identify activities in the energy sector that could be the subject of negotiations.

Ms. Ana Novik, Counsellor, Permanent Mission of Chile, Geneva

41. In Chile the privatization of the energy sector began in the early 1980s, aimed at stimulating economic activities and allowing the presence of private actors, while the Government remained in charge mainly of the regulatory function. The Chilean energy market has become increasingly competitive. Gradual energy integration with neighbouring countries, trade in energy services and growing attention to environmental protection have become driving forces for market changes and economic growth. The growing consumption of energy has been followed by an increasing diversification of energy sources from oil and hydropower into other energy sources. The main challenges for Chile remain the introduction of renewable energies and rural electrification.

42. Chile is highly dependent on imported energy. It has an energy sector which is very open, its private firms providing energy services are looking for business opportunities in foreign markets, and the country participates in the regional forums where energy is discussed. It is within this context that a proposal on energy services was tabled by Chile in the WTO. It aims at reinforcing the development of energy services in competitive and transparent markets; embracing the whole spectrum of energy services in the negotiations; ensuring market access, while respecting domestic regulations; and analysing the issue of subsidies in the energy sector.

Mr. Francesco Meggiolaro, Administrator, Directorate-General for Trade, European Commission

43. The European Communities (EC) have engaged in the reform of the energy sector in order to achieve increased competitiveness, improved environmental protection and greater

security of energy supplies. Energy may determine – owing to its importance in the cost structure – the competitiveness of the whole industry.

44. The EC proposal to the WTO does not seek deregulation, since an appropriate legal framework is crucial for achieving national policy objectives, creating an environment of fair competition, ensuring that monopoly positions are not abused, and, ultimately, achieving efficiency through competition. It is important to analyse the variety of services activities that need to be covered in the services classification and the scope of the discussion in the WTO. The list of energy services which is included in the proposal tabled by the EC is open for discussion. It is important to maintain legal certainty, and classification should be neutral in terms of energy sources.

Ms. Rikke Eeg-Henriksen, Counsellor, Permanent Mission of Norway, Geneva

45. The energy sector remains a key factor for economic growth. The electricity market was opened up in Norway in 1991, and this led to increased competition, efficiency and better choices for consumers. Because of the special characteristics of the energy market, the Government has played an active role in setting up an appropriate legal framework. The structural reform was successful and a common market is now operational in the Nordic countries.

46. Norway is one of the few countries that have undertaken GATS-specific commitments on energy-related services. In its negotiating proposal in the context of the GATS, Norway indicated that all energy services should be covered in the negotiations; the number and scope of commitments need to be increased; regulatory issues should be addressed through a reference paper; and a checklist could be useful in negotiating specific commitments.

47. To benefit fully from the increasing competition and international trade in the energy market, it is important to have the whole chain of energy services opened up. Energy is not a sector in the established GATS classification and some energy services may be found in different sectors or subsectors of the sectoral list. For discussion purposes, Norway attached a preliminary checklist for energy-related services to its GATS proposal. The proposal acknowledges the right of Governments to regulate for the achievement of their national policy objectives, excludes the issue of ownership of resources from its scope, and recognizes that since countries are in various stages of regulatory development, commitments reflect the market and regulatory realities.

48. A number of regulatory issues have to be addressed during the negotiations and a reference paper could be negotiated to set up disciplines on specific issues, such as transparency, non-discriminatory access to the network and anti-competitive practices.

Ms. Lana Ekimoff, Senior Economist, Office of International Policy, Trade and Investment, Department of Energy, United States

49. There is no separate classification of energy services in the GATS. In defining what energy services are, it is important to include the whole chain of energy-services-related activities intended to provide efficiently produced, reasonably priced and reliable energy to consumers. Five categories were identified in this respect: (a) activities related to the exploration and development of energy resources; (b) activities related to the operation of an energy facility; (c) activities related to energy networks; (d) services related to wholesale markets in energy; and (e) services related to the retail supply of energy. A clearer inclusion of energy services under the GATS could benefit the providers of these services by offering greater legal certainty about the situation in foreign markets, as well as government officials, who would have a solid basis for making meaningful market access commitments in this sector. All countries would benefit from the adoption of a proper classification of energy services.

50. A proposal on energy services was submitted by the United States in December 2000. It recognizes the importance of environmental protection and of competition to ensure that consumers have access to efficiently produced, reasonably priced and reliable energy. It also recognizes the role of Governments in regulating resources with the aim of protecting the environment and achieving sustainable development. Furthermore, it stresses that barriers in many countries may limit market access and national treatment and give rise to discriminatory access, and that ownership of resources is not part of negotiations, as well as putting forward the idea of a reference paper that would outline access issues.

Ms. Elbey Borrero, Second Secretary, Permanent Mission of Venezuela, Geneva

51. The Venezuelan GATS proposal assumes that improved market access in the energy services sector will have beneficial effects for all countries, that negotiations on the liberalization of that sector should not address the issue of ownership of natural resources, and that the energy sector will continue to be regulated to ensure the achievement of public policy goals. The proposal is aimed at creating the necessary environment to strengthen domestic entrepreneurial capacity, especially the participation of SMEs in order to avoid market concentration. Joint venturing is seen as one way of promoting the participation of domestic companies. The proposal puts emphasis on access to technology on a commercial basis. Through increasing domestic supply capacity and greater participation by local firms in the energy services market, developing countries will improve their competitiveness in all sectors since energy services are infrastructure services.

52. The expert highlighted the development rights enshrined in the GATS. She emphasized the positive list approach, the right of Governments to regulate and to attach conditions when giving access to their markets, and the flexibility granted to developing countries in line with the provisions of GATS Article XIX.

53. With respect to the classification of energy services, the Venezuelan proposal suggests that the classification of the energy services sector take account of three criteria: the sources of energy; the phases of the energy process; and the distinction between "core" and "non-core" services. A checklist may benefit negotiators and be helpful in respect of legal certainty in the making of specific commitments.

Debate

54. A lively debate followed the presentation of negotiating proposals. The experts agreed that the energy sector is a strategic sector and this is why it was left for a long time in the hands of Governments. It continues to be a crucial sector and countries maintain their interest in it. The experts felt that all stakeholders should be involved in the current debate on energy services. The developing country contribution to world trade in energy is currently 20 per cent. Promoting international trade will give developing countries the opportunity to increase their participation. However, while international trade is important, there is a need to link it with development. Privatization may be an option for doing so, one which several developing countries are now considering. Although more affordable prices have made it possible for a larger number of people to have access to energy, many segments of the population and business in developing countries still cannot afford it. The critical element, therefore, is access to financial resources.

55. It was noted that the energy market is a segmented market containing many different types of different services. It seems to include a small number of large firms, which are especially active in oilfield services, and a myriad of SMEs, which are increasingly active in specific segments of the market. Companies which operate in the sector have to be versatile enough to provide different kinds of services, able to respond quickly to requests for services, and able to provide services in different places. The market concentration and vertical integration that the sector is experiencing are the result of these requirements, which very few firms are able to meet.

56. Issues related to SMEs were regarded by most participants as very relevant. The experts believed that the challenge is to find mechanisms which would allow companies of various sizes to play a role in the energy market and contribute to economic growth.

57. Several experts stressed the close link between market liberalization in the energy services sector, investment and transfer of technology, and underlined the need to take the development aspect into account when negotiating the opening of this strategic sector.

58. According to one expert, by and large, all the negotiating proposals on energy services suggest a "cluster" approach. He wondered about the implications of using this approach in the energy services sector as compared with other services sectors. According to several experts, a checklist could be a useful and flexible negotiating tool to identify energy-related activities that could be the subject of negotiations.

59. It was noted that an appropriate classification of energy services is not an end in itself, but a tool to facilitate the scheduling of commitments. A consensus has not yet been reached on whether it would be appropriate to modify the classification list as included in WTO document W/120 and create a specific category for energy services. However, it is clear that any possible modification of W/120 should be negotiated by WTO Members, bearing in mind the need for the legal security of existing commitments.

60. UNCTAD should play a key role in collecting energy statistics and make them available. Statistics are of paramount importance for attracting investment and for fostering the liberalization of trade in energy services.

61. Several experts stressed that countries' different levels of development, market realities and regulatory situations should be taken into account during negotiations. It was noted that some of the GATS proposals refer to the concept of technological neutrality: it may be useful to clarify and define this.

62. Another issue that retained the attention of most experts was the possible need to negotiate a reference paper for energy services, similar to the WTO Reference Paper on Basic Telecommunications Services. If such a paper proved to be needed, the question of its content would arise. The experts mentioned as the most likely content rules on competition and on conditionalities to link the opening of the sector with development.

63. Finally, it was noted that UNCTAD's Expert Meeting on Energy Services was the first intergovernmental gathering to address issues related to the energy services sector. However, other intergovernmental organizations have been working on related issues. More specifically, the Economic and Social Commission for Western Asia (ESCWA) has prepared three studies on trade aspects of energy. The representative of ESCWA expressed his organization's interest in hosting a follow-up meeting.

C. Implications for developing countries

Mr. Bernardo Alvarez, Vice-Minister of Energy and Mines, Venezuela

64. The Venezuelan development strategy in the energy sector is based on four dimensions: fiscal revenue, the supply chain of goods and services, downstream industrialization and private domestic capital participation. A balance among the four dimensions has to be ensured. The key goal of the strategy is to develop a network of public and private enterprises able to produce tradable goods and services and compete in international markets. To this end, national and foreign private investment and joint ventures will be promoted. The development of the energy sector will favour the enhancement of other economic sectors and of society as a whole, and contribute to the overall diversification of the Venezuelan economy.

65. In Venezuela oil and gas are the main exports (worth US$ 27 billion in 2000) and the main source of fiscal revenue (totalling US$ 12 billion in 2000), but the growth potential of

the fiscal dimension is limited and its behaviour volatile. Economic diversification must be pursued, taking into consideration the competitive advantage of the energy sector.

66. Downstream industrialization is the dimension with the highest growth potential, because of its linkages with the rest of the economy, and represents the main challenge for the development of the energy value chain.

67. With regard to the supply chain of goods and services, the energy sector will generate in the long run a great demand for goods and services, enabling the establishment of new services suppliers and the consolidation of existing ones.

68. The Venezuelan development strategy also focuses on fostering private domestic capital investment, promoting strategic alliances between national and international enterprises and strengthening internal savings and domestic capital markets.

69. Energy must be used as a tool to tap the huge opportunities for developing a strong and diversified national services industry in the energy sector. For that purpose, alliances have to be promoted between domestic and foreign enterprises of all sizes for the supply of services nationally and internationally; a network of national and international companies supplying core and related energy services should be established; and the energy strategy must be supported by Venezuela's active participation in the multilateral trade negotiation forums.

Mr. B.S.K. Naidu, Director General, National Power Training Institute, Ministry of Power, India

70. Energy must be available, accessible and affordable. Currently, new renewables represent only 2 per cent of global energy consumption, while fossil fuels represent 85 per cent. Nearly two billion people in developing countries lack access to modern commercial energy forms. Since most energy is obtained from the burning of exhaustible and polluting fossil fuels, carbon dioxide levels and temperatures have increased and millions of people risk losing their land because of rising sea levels. A choice in favour of renewable, sustainable and environmentally friendly energy sources can be made only when the people at large have this option.

71. In energy-starved India, one billion people cannot afford any form of commercial energy. Seventy per cent of the population, living in rural areas, have poor-quality and unreliable energy supplies. Although 85 per cent of villages are electrified, only 31 per cent of rural households have access to electricity. Four hundred million people lack access to electricity and are therefore forced to use traditional, inefficient and polluting energy sources, thus jeopardizing their health and depleting natural resources. Energy policies in India, as in other developing countries, should always give priority to the survival and welfare of the rural poor and stimulate their participation and creativity. Humanitarian concerns should prevail over business considerations, and local specific re-engineering is to be preferred to

blind technology transfer. Energy strategies should be based on a thorough knowledge of national conditions and needs, and must encourage local capacity-building.

Mr. Léonidas Ndayishimiye, Director-General, Directorate-General of Water and Energy, Ministry of Energy and Mines, Burundi

72. The people of Burundi, Rwanda and the eastern region of the Democratic Republic of the Congo depend on traditional sources of energy. These countries import most of the electricity they consume, but are conducting feasibility studies regarding the possibility of building more hydroelectric plants. Some studies have considered including other countries of the subregion in this effort, namely Uganda and the United Republic of Tanzania.

73. However, there are still considerable barriers to regional trade in energy goods and services, namely lack of financial resources to build an efficient infrastructure for energy generation, political instability and differing tariff systems among the three countries. The process of liberalization of the energy sector has been slow so far and regulatory regimes are still based on traditional public monopolies.

74. Regional integration would be an efficient means to attract financial resources and increase economic growth. However, before debating trade in energy goods and services, experts and Governments should focus on the difficulties that several developing countries face in energy generation.

Mr. Issa Alao Yaya-Oye, Counsellor, Ministry of Energy, Benin

75. The expert from Benin stressed the need for the African countries in the region to increase the production of energy and widen its distribution among the population. In this connection, Benin started ten years ago the liberalization of the energy sector with the objective of producing energy more efficiently and at a lower cost. The production and distribution segments have been privatized. Regional integration is being considered as a means of increasing efficiency and Benin is importing natural gas from Nigeria.

76. The issue of sustainable development should be addressed, since increased burning of firewood by the rural population, which lacks access to modern commercial energy, leads to environmental problems. The main concern for Benin is to obtain enough financial resources to ensure better access to energy for the local population. Electrification of the villages in Benin would cost around US$ 100,000.

Mr. Kirimi Guantai, Head of Planning, Ministry of Energy, Kenya

77. Petroleum products account for 70 per cent of commercial energy in Kenya and petroleum exploration is yet to yield commercially exploitable sites. Hydropower is the main generator of electricity. Kenya has experienced critical power shortages since September 1999, mainly owing to a lack of rain. Since electricity reaches only 1.5 per cent of the rural population, solar energy is becoming an attractive option. The Government recently reduced

duties on solar energy systems to make them more affordable. Studies are being conducted to improve quality control.

78. Kenya is a net importer of petroleum and spends about 4 per cent of GDP per year on importing petroleum products. The petroleum sector was deregulated in 1994 in order to allow more players to enter the market. The Kenyan petroleum market, however, is far from being competitive. This is due to a lack of adequate infrastructure, the need for a large amount of capital to start a business, and the absence of an adequate regulatory framework.

79. There has been cooperation in the energy sector in East Africa for many years. However, it needs to be enhanced, strengthened and diversified. Barriers include the absence of an energy master plan for the region, poor infrastructure, unreliable information, inadequate research and different economic policies. Some recommendations for enhancing energy trade in the region include the harmonization of standards for gasoline, the development of a new strategy for cross-border electrification, the exchange of data and information between power utilities, an inventory of renewable energy technologies and the development of standards and codes of practice for those technologies, as well as tax relief for manufacturers and retailers of renewable-energy-related technologies.

Mr. K.B. Wakhley, Head of Division, Programme Implementation Division, Department of Power, Ministry of Trade and Industry, Bhutan

80. Availability of energy used to be a particular problem in Bhutan, especially in the rural areas. However, there are now 23 hydropower stations with various capacities operating in the country. The most important aspect of hydropower development activities has been the accrual of revenues from the sale of electricity locally as well as to India. Forty-five per cent of government revenue is generated by the sale of electricity, and this contributes 11 per cent to GDP. The availability of electricity to people, especially in rural areas, has had remarkable effects. There have been tremendous improvements in health, hygiene and productivity. International trade in energy involves political will and therefore political cooperation among countries should be fostered.

Debate

81. A lively debate followed the main presentations. Some experts from developing oil-producing and exporting countries expressed their concerns about the structural changes taking place in the energy sector. Energy companies are becoming increasingly vertically integrated and a number of national and regional companies worldwide are becoming transnational companies. These phenomena could lead to a concentration of expertise and technology in the hands of a few large firms. It would therefore become increasingly difficult for developing country firms to compete with such companies and participate more meaningfully in the energy markets. Experts noted that their Governments sometimes have problems in dealing with transnational companies that are extremely powerful and influential.

82. The experts from oil-producing and exporting developing countries noted that multilateral trade negotiations on energy goods and services are of the greatest relevance and sensitivity for them. This is because their economies wholly depend on oil, and any change in the trade flows of energy goods and services would impact on their development prospects. For this reason, oil-producing and exporting developing countries should develop a common negotiating position on energy-related issues.

83. Some experts expressed their concern at the high level of consumption and excise taxes imposed on petroleum products in the consuming countries and called for lower taxes.

84. On the issue of structural reform in the energy sector, it was asserted that each country should retain the freedom to reform the sector when it deems it appropriate, in accordance with its sustainable development strategy. Developing countries need assistance in this process since there are many different ways of liberalizing the energy sector. A road map could be drawn to serve as a guideline for enhancing trade in energy services and to facilitate trade negotiations.

85. Reacting to the presentations made by representatives of least developed countries, experts pointed out that South-South cooperation in the energy field has great potential for contributing to the solution of energy-related problems and should therefore be pursued.

Chapter III

ORGANIZATIONAL MATTERS

A. Convening of the Expert Meeting

86. The Expert Meeting on Energy Services in International Trade: Development Implications was held at the Palais des Nations, Geneva, from 23 to 25 July 2001.

B. Election of officers

(Agenda item 1)

87. At its opening meeting, the Expert Meeting elected the following officers to serve on its bureau:

Chairperson:	Mr. Werner Corrales (Venezuela)
Vice-Chairperson	Ms. Marja Kuosmanen (Finland)
Vice-Chairperson-cum-Rapporteur:	Mr. Youri Afanassiev (Russian Federation)

C. Adoption of the agenda and organization of work

(Agenda item 2)

88. At the same meeting, the Expert Meeting adopted the provisional agenda circulated in document TD/B/COM.1/EM.16/1. The agenda for the Meeting was thus as follows:

1. Election of officers
2. Adoption of the agenda and organization of work
3. Energy services in international trade: Development implications
4. Adoption of the outcome of the Meeting

D. Documentation

89. For its consideration of the substantive agenda item, the Expert Meeting had before it a note by the UNCTAD secretariat entitled "Energy services in international trade: Development implications (TD/B/COM.1/EM.16/2).

E. Adoption of the outcome of the Meeting

(Agenda item 4)

90. At its closing meeting, the Expert Meeting authorized the Rapporteur to prepare the final report of the Meeting, under the authority of the Chairperson.

Annex

ATTENDANCE *

1. Experts from the following States members of UNCTAD attended the Meeting:

Angola
Austria
Benin
Bhutan
Bolivia
Brazil
Burundi
Canada
Chile
Colombia
Costa Rica
Cuba
Dominican Republic
Egypt
Ethiopia
Finland
France
Guinea
Holy See
India
Indonesia
Iran (Islamic Republic of)
Italy
Kenya
Kuwait
Lesotho
Libyan Arab Jamahiriya
Lithuania
Madagascar
Mexico
Morocco
Netherlands
Oman
Paraguay
Peru
Qatar
Russian Federation
Sao Tome and Principe
Saudi Arabia
Slovakia
Switzerland
Thailand
Trinidad and Tobago
Turkey
United Arab Emirates
United Kingdom of Great Britain and Northern Ireland
United States of America
Uruguay
Venezuela
Viet Nam

2. The following intergovernmental organizations were represented at the Meeting:

Inter-American Development Bank
Asian-African Legal Consultative Committee
European Community
Organisation for Economic Co-operation and Development
Organization of African Unity

* For the list of participants, see TD/B/COM.1/EM.16/INF.1.

3. The following specialized agencies and related organization were represented at the Meeting:

Food and Agriculture Organization of the United Nations
United Nations Industrial Development Organization
World Trade Organization

4. The Economic Commission for Europe, the Economic and Social Commission for Western Asia and the Department of Economic and Social Affairs were represented at the Meeting.

5. The following non-governmental organization was represented at the Meeting:

General Category

Exchange and Cooperation Centre for Latin America

6. The following special invitees attended the Meeting:

Ms. Elisabeth Tuerk, Center for International Environmental Law (CIEL)
Mr. Andras Lakatos, Senior Expert Trade, Energy Charter Secretariat
Ms. Anne-Malorie Géron, Adviser – Legal Affairs, EURELECTRIC
Mr. Thomas Spiller, Manager, Institutional Affairs, FORATOM (European Atomic Forum)
Mr. Ismail Elshafei, Senior Researcher, Projects Department, Gulf Organization for Industrial Consulting (GOIC)
Mr. Julian Arkell
Mr. Kamil Mahdi, Senior Lecturer, Institute for Arab and Islamic Studies, University of Exeter
Mr. Maxim Bannikov, Lawyer, Brussels, Belgium
Mr. Vagit Alekperov, President, Lukoil
Mr. Claude Haegi, President, Foundation for the Economy and Sustainable Development of the Regions of Europe

Speakers

Professor Thomas Wälde, Director, Centre for Energy, Petroleum and Mineral Law and Policy, Dundee, Scotland, United Kingdom
Mr. Norman Anderson, President and Chief Executive Officer, CG/LA Infrastructure, Washington, DC, United States

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REPORT OF THE EXPERT MEETING ON CONSUMER INTERESTS, COMPETITIVENESS, COMPETITION AND DEVELOPMENT

Held at the Palais des Nations, Geneva
17 to 19 October 2001

CONTENTS

Chapter		Page
I.	Outcome of the Expert Meeting	2
II.	Chairperson's summary	6
III.	Organizational matters	14
Annex		
	Attendance	16

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Chapter I

THE ROLE OF CONSUMER AND COMPETITION POLICIES IN ENHANCING COMPETITIVENESS AND DEVELOPMENT

Outcome of the Expert Meeting

The Expert Meeting made the following proposals on issues which should be taken into account in UNCTAD's work on consumer interests, competitiveness, competition and development.

1. The Expert Meeting offered the opportunity for an enriching exchange of expertise and experiences on the relevance of competition law and policy and consumer protection policies for enhancing competitiveness in developing countries and economies in transition. The discussions covered member countries' relevant experiences in matters of consumer protection and competition policy, including privatization and deregulation of public sector utilities; the implications of globalization for cross-border anti-competitive practices; and public policy and capacity-building for rule-making and enforcement. The importance of national and regional traditions and cultures was stressed as the background against which the content and the implementation of consumer protection and competition laws should be defined.

FINDINGS

2. Whilst recognizing that globalization and deregulation of goods and services markets may have the potential to improve the circumstances of consumers in many countries, the meeting also recognized that these processes pose major challenges when markets fail to protect consumers and access to redress mechanisms. The challenges posed by competition among developing countries to attract foreign investment, as well as the permeability of frontiers to unwarranted imports in some countries, were noted as deserving particular attention in this regard.

3. It was recognized that privatization and deregulation in developing countries (particularly the least developed countries among them) and the drive to limit the role of Governments in the market place may go hand in hand with regard for consumer interests and the need for an institutional and legal framework for consumer protection. It was pointed out that in some cases privatization and deregulation have been effected with scant regard for consumer interests and often in the absence of an institutional and legal framework for consumer protection. The processes of deregulation and liberalization have thus exposed consumers in developing countries and economies in transition to unsafe products and services and fraudulent business practices.

4. It was further recognized that national regimes for consumer protection would need to protect consumers and promote sustainable consumption patterns without imposing undue constraints on business, in order to achieve the development and growth of effective markets.

5. It was noted that properly implemented competition and consumer policies can make a key contribution to competitiveness and sustainable development.

6. In the light of these findings the Expert Meeting made the following recommendations for consideration by the Commission on Trade in Goods and Services, and Commodities at its sixth session, to be held in Geneva from 4 to 8 February 2002.

A. At the national and regional levels

7. Governments are invited to take the necessary steps to implement the UN Guidelines for Consumer Protection (1999) as a matter of urgency and in this regard incorporate the consumer protection dimension into their macroeconomic policies and legal frameworks. In this respect, Governments should also take account of the interests of consumers and actively negotiate on their behalf when entering into binding international agreements.

8. Governments should develop and maintain competition and consumer protection policies which are mutually reinforcing, with a view to promoting consumer welfare, competitive markets, competitiveness and development.

9. Governments should take into account consumer views and interests at all levels of policy- and decision-making processes and in this respect they should create specific channels and mechanisms for dialogue with consumers and their representative organizations. It was suggested that Governments should adopt mechanisms to delegate to civil society certain reconciliation and consumer arbitration powers.

10. In applying consumer protection laws and other regulations Governments should take due care to ensure that measures benefit all sectors of the population, particularly the informal sector and the poor.

11. Bearing in mind the need to reach rural areas and illiterate consumers, Governments should, as appropriate, develop and/or encourage the development of consumer information and education programmes.

12. Governments should take the necessary steps to establish consumer courts.

13. Governments are invited to take measures with a view to combating the production and marketing of poor-quality and unsafe products, including the development of black markets for the sale of such products.

14. Governments should take the necessary steps to include consumer education programmes in the curriculum of formal and non-formal education.

15. Enterprises should obey relevant laws and regulations of the countries in which they do business and conform to the appropriate provisions of international standards.

16. Enterprises should conform to the provisions of the UN Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, particularly section D, "Principles and rules for enterprises, including transnational corporations".

17. Each private sector organization should adopt a code of conduct for its members in order to promote ethics, subject to competition laws.

18. Consumer associations and representatives should, for their part, familiarize themselves fully with the UN Guidelines for Consumer Protection in order to be able to play their role of educating consumers, particularly those in the informal sector, thereby contributing to the implementation of those guidelines.

19. Consumer associations are encouraged to be proactive in their interaction with government and intergovernmental agencies and with businesses in order to advance and safeguard consumer views and interests.

20. Consumer associations should develop joint regional training and information programmes in cooperation with government, business, international organizations, and academic and other civil society organizations in order to create synergies for promoting consumer welfare.

B. At the international level

21. UNCTAD should call upon the international development partners to provide technical and financial assistance in the field of capacity-building at the human resource and institutional levels for the formulation and enforcement of consumer policies. In this respect, financing organizations and external donors are invited to make voluntary contributions in support of those objectives.

22. The Expert Meeting noted with appreciation the important and useful work done by UNCTAD in the field of competition law and policy and consumer protection.

23. UNCTAD should strengthen its institutional machinery and promote consumer interests with a view to monitoring implementation of the UN Guidelines for Consumer Protection.

24. UNCTAD should convene Expert Meetings on the protection of consumers and regulation of public services and on international mechanisms for consumer protection, including in relation to cross-border transactions, cross-border fraud, e-commerce, etc.

25. UNCTAD should, upon request, provide member countries with technical assistance in adopting or reforming and better enforcing consumer protection and competition laws and in implementing the UN Guidelines for Consumer Protection as expanded in 1999. Resources permitting, UNCTAD should also assist consumer organizations in this respect.

26. UNCTAD should cooperate with other relevant international organizations and consumer associations with a view to taking stock of ongoing work, disseminating information and creating synergies towards an integrated approach for more effective implementation of the UN Guidelines for Consumer Protection.

27. Some experts recommended that UNCTAD should further study the interface between competition, consumer interests, competitiveness and development by focusing on how markets can integrate the informal sector, work better for the poor and generate growth, employment and export opportunities.

28. UNCTAD should develop and maintain a website network on consumer protection containing information on existing consumer protection activities, policies, organizations and legislation, including regional and international agreements containing consumer-related provisions.

29. UNCTAD should develop a model law or laws on consumer protection.

Chapter II

CHAIRPERSON'S SUMMARY

1. The Expert Meeting on Consumer Interests, Competitiveness, Competition and Development organized its discussions under three substantive themes: (a) globalization, competition, competitiveness and consumer protection; (b) national competition law and policy, regulation and consumer welfare; and (c) public policy and capacity-building for rule-making and enforcement.

A. Globalization, competition, competitiveness and consumer protection

2. Under this first theme, the experts discussed the experiences of poorer countries in assessing the impact of globalization on competition, competitiveness and consumer welfare. It was reported that during economic reforms in Uganda, extensive economic liberalization, including the privatization of State enterprises, had led to a number of anti-competitive practices by foreign firms which constituted abuse of dominance. Such practices included buying off competitors, and dumping defective, hazardous and/or substandard goods on domestic markets. It was reported that some firms had been accused of selling substandard lubricants to rural consumers, and marketing suspect dairy products, beef, cooking oil and other food items under the guise of food aid. Other examples of unscrupulous business practices included the misuse of ISO 9000 as a product quality mark. Also, competition had been distorted by leading firms' price-fixing and market-sharing arrangements, particularly in the beverages and petroleum industries. It was reported that the trade associations formed by those two industries were an excuse for fixing prices and sharing markets.

3. It emerged from the discussions that many developing country Governments had largely been unable or reluctant to respond to complaints lodged by consumer protection associations and the general public for a number of reasons. These included the absence of competition and consumer protection legislation or authorities, a lack of resources – both human and financial – to investigate complaints, impotence in the face of global mergers and acquisitions for fear of retaliatory action by some large firms' home country, political interference, and fear of frightening away foreign direct investment.

4. Experts pointed out that in some cases, while looking for the benefits of globalization many countries were grappling with anti-competitive practices arising from mergers and acquisitions by mega-firms as a result of trade liberalization and privatization. These mergers and acquisitions had been mainly in the banking and financial sectors, and in tourism.

5. Problems relating to various types of international fraud, such as pyramid schemes, had been uncovered by developing countries. An intensive education campaign in that connection had had little effect, particularly among consumers from the poorer sections of the population, and many had lost money as a result of such schemes. While some of the abuses had been prosecuted in some countries under common or criminal law, there was an urgent need for specific legislation. Other problems, which Governments were trying to come to

grips with, included jurisdictional issues relating to electronic commerce and cases of counterfeiting.

6. It was indicated that in countries whose competition law did not include provisions relating to mergers and acquisitions, there was some scope for examining mergers and acquisitions under legal provisions covering anti-competitive practices and for recourse to common-law principles. It emerged from the discussions that this issue should be revisited and that competition laws should include specific provisions relating to mergers and acquisitions, with factors such as market thresholds, scales for competitiveness and the size of domestic markets in a global market being taken into consideration.

7. At the regional level several integration groupings, including the Caribbean Community (CARICOM), had formulated community competition policies that were expected to boost national laws. The harmonization of national competition laws and issues concerning the extent to which sovereign rights might have to yield to regional concerns remained to be tackled. Other issues, particularly for countries that had not yet introduced competition law, related to the availability of resources for implementation and the costs associated with it. In addition, participants referred to the potential conflict with other agreements, including on trade and investment issues, and to implementing competition policies in smaller economies while giving specific consideration to the particular vulnerability of those economies.

8. If consumers were confused by the information given by the seller, it might be appropriate to require greater disclosure. Where there was an uneven basis of comparison, pro-competitive standardization would be appropriate and standards bureaux had an obvious role to play in this regard. It was pointed out that information-sharing among competition and consumer protection authorities was vital for curbing international frauds such as pyramid schemes. A question raised in this context was how to protect consumers in a global economy. It was reported that the United States International Consumer Database monitored such schemes, and that the database was available to any country that might wish to use it or contribute information to it. Consumer education on a global basis, information-sharing and transparency were necessary in order to make consumers better able to protect themselves from unscrupulous business practices. Countries needed to undertake joint action to safeguard themselves against cross-border fraud. Areas of particular concern to consumers in e-commerce were security issues related to payments on-line and consumer redress in the event of disputes. It was stressed that competitive markets were the first line of defence, and Governments were urged not to compromise free-market principles in the quest for consumer protection.

B. National competition law and policy, regulation and consumer welfare

9. In principle, competition and consumer protection policies share the same goals. In an ideal world the market should protect consumers, but in reality markets fail regularly, mainly because of misinformation, and thus the benefits of competition are often lost. Examples of

market failure in this respect which were cited included cases where consumers were inexperienced or confused by product information; where the basis of comparison was confusing, for example when different units of measurements were used for like products; and where sellers had no interest in protecting their reputation. Such problems were likely to increase with the use of the Internet for the sale and purchase of goods and services.

10. In a number of developing countries the introduction of economic reforms opened the door to poor-quality goods and services. Market forces were expected to regulate prices through fair competition, but frequently this did not happen. Despite the existence of competition authorities and consumer protection legislation in many developing countries, asymmetric information still placed consumers at a great disadvantage.

11. Several experts reported that consumer protection legislation, which could encompass amendments to the existing consumer protection Acts or competition laws, were either under consideration or had been introduced. The approach to consumer protection sought to achieve greater redress in terms of the imbalance in knowledge and power between suppliers and consumers.

12. Another issue that was discussed was how, in the absence of specific legislation, common law would function to protect consumers effectively in cases of misinformation. The experience of one common-law country indicated that since different groups of consumers were likely to have different tastes and preferences, it was important that the provisions of consumer protection laws be flexible enough to accommodate different consumer perspectives. In some legislations various common-law provisions worked effectively to secure redress through the Sale of Goods Acts, which dealt with merchantability, and or the General Law of Contracts, which dealt with misrepresentation. For example, in Jamaica, consumer redress with respect to pyramid schemes had been secured through criminal law. However, a major drawback with regard to seeking redress through both common and criminal law was the high costs associated with the process. It was reported that in some least developed African countries, consumer protection laws advocated the establishment of small claims courts and the bringing of class actions as a way of expediting consumer redress and reducing the costs of access to justice.

13. With regard to misleading advertising, it transpired that the American approach, which was comparable to that of the European Union, was to require the advertiser to substantiate any claim made in advertisements. Should the advertiser not have any proof of claims made, such advertisements would be deemed to be misleading. Consumer protection associations in several developing countries where there was no specific legislation had successfully challenged claims made by companies, and this had resulted in the removal of the offending advertisements. Efforts to remedy misleading information contained in advertisements emanating from a foreign enterprise proved more difficult, as this implied cooperation with foreign Governments and other consumer organizations since domestic laws did not have extraterritorial effect.

14. A number of experts disagreed with the assertion that competition law always served the interests of consumers. They were of the view that while competition law and policy had some objectives in common with consumer protection, these were two separate issues whose scope was different and between which contradictions arose from time to time. Consequently, it was necessary to look at the points of convergence and of divergence between the two and to ensure that consumer policy was not subsumed under competition policy. It was stressed that although consumer policy and competition policy might not converge in all aspects, they complemented each other.

15. The interface between competition policy, consumer protection and competitiveness, particularly in economies in transition, was questioned by some experts. Evidence of a causal relationship at both the national and international levels was called for. The American automobile industry and the fast-food industry were presented as cases in point, where competition from foreign competitors led to new products and more competitiveness.

16. The point was made that for many developing countries the protection of national industries was still the priority and that this necessitated careful monitoring of local and imported products. In the light of low incomes and widespread poverty, it was necessary to ensure the availability of cheap local substitutes. The informal sector played a critical role in ensuring the availability of affordable goods and services to the poor, who often constituted the majority of the population in developing countries. In the absence of capacity to combat restrictive business practices, increased imports might not benefit consumers or raise standards of living. In this respect, competition policy had to be placed in the context of development.

17. In response to these concerns, it was pointed out that competition law and policy were intended to protect competition and not the competitor. Foreign competition represented an opportunity for local producers to upgrade their products, and consumers were presented with a choice of products. It was to be expected that producers that proved non-competitive would be driven out of the market; this was acceptable if it meant that the consumer would have access to better-quality goods at a competitive price. If consumers were left unable to afford expensive imports and more affordable local substitutes were driven out of the market, there might be sufficient grounds for anti-dumping measures to be instituted in order to preserve competition.

18. It was emphasized that there was a strong link between consumer protection and competitiveness. The need for consumer sensitization and education was stressed particularly in the case of developing countries, where the majority of consumers were hampered by illiteracy and other information deficiencies. Very often poor consumers accepted defective goods, attributing their purchase to bad luck, and neglected to lodge a complaint. In many cases, the informal sector's clientele believed that that sector provided cheaper and perhaps better-quality goods. However, a study in Venezuela revealed that prices were cheaper only in the case of prepared food – all other goods were more expensive than in the formal sector.

19. Consumer education entailed the sensitization of both consumers and business, because businesses often saw consumer organizations as their enemy. In the light of the inadequate information available to developing country consumers, consumer education necessitated simplifying consumer protection laws and reaching rural consumers by ensuring that consumer education programmes provided adequate coverage and by developing innovative ways to transmit messages to consumers. Also, it was agreed that consumer education should be introduced into the curricula of schools and universities. In this context, the experience of the volunteer job programme of the Uganda Consumers Protection Association, which involved the sending out of field officers to remote areas, including schools, was germane. An important lesson to be learned from the American experience was the use of colourful and stimulating educational material that could capture the attention of the consumer, developed with the help of marketing experts and in conjunction with business organizations that were willing to share the costs of producing such material.

20. It was noted that conflicts between competitiveness, intellectual property rights and consumer protection could often not be resolved easily. Cases in point were genetically modified products and pirated music. In this context, the role and function of regulation for consumer protection represented both costs and benefits for consumers. For example, intellectual property rights protection raised the costs to consumers. However, such costs might be deemed worthwhile, although this might not always be the case where, for instance, health concerns could be considered to be too serious compared with the costs imposed on the producer, should the supplier be forced to comply with health standards. One expert was of the view that health standards should not be compromised even in the informal sector, citing the example of successful programmes for informal-sector small and medium-sized enterprises (SMEs) to upgrade health standards and progressively comply with consumer protection laws throughout the economy. The point was also made that although the informal sector could play an important role in developing economies, if any breaches of competition law or consumer protection were identified, consumer redress must be secured.

21. The discussions on microenterprise policies focused attention on the problems and challenges facing SMEs and, in particular, on how other development policies interacted with that sector. It was explained that in many developing countries a large proportion of the population lived in poverty and earned their living from the informal sector. Consequently, there was a need to examine how the principles of competitiveness and consumer protection would and should be applied to the informal market in order to make it more efficient and allow it to achieve its full potential.

22. Critical differences were recognized as inherent between the formal and informal markets. The two sectors differed in *inter alia* technology use, firm size, types of goods and services, legal status and organizational skills. Given these critical differences, informal markets tended to manifest certain characteristics of potentially competitive markets. These might include free entry and exit, and a large number of traders, although the existence of non-homogeneous products and a lack of information might confuse consumers and lessen competition.

23. It was pointed out that the informal sector could play a development role in the developing countries, and that there was therefore a need to revitalize and empower this sector. One area which was identified as playing a crucial role in this empowerment was micro financing. The evolution of micro finance institutions (MFIs) had made it possible for informal market operators to access human technical and financial resources, especially loans. A case study was reported where the MFIs had adapted themselves to the needs of informal market operators and where access to loans on favourable terms had been developed. Governments and other development agents were therefore called upon to accommodate the informal sector and adopt those terms in programmes suitable for the sector.

24. The experts also discussed the existence of natural monopolies, including public utilities, which operated through multiple local distribution agencies. Often consumers complained of inefficient State monopolies but at the same time objected to privatization of those enterprises. This was due to the fact that many public utilities had no easy substitutes for local markets, and often resulted in private companies investing in service extension only in markets where consumers could afford to pay high prices, and investments could yield high returns. It was reported that in Ghana consumers in rural areas paid more for water than those in urban areas. A key issue was who should pay for the social cost after the privatization of basic utilities and how to ensure that the perceived private monopolies did not abuse their dominant positions. This called for sector regulatory policies and supervision of privatized utilities.

25. Concerning possible conflicts between regulation and competition policy, it was argued that regulatory decisions should not pre-empt the entry of new competitors since this might adversely affect consumer welfare. A major deficiency was the lack of clear, regular and stable procedures for consumer participation in the regulatory processes, particularly in privatized enterprises. Regulations might be an appropriate tool for allocating resources, provided that the interests of the population at large were taken into consideration in those regulations.

26. It was pointed out that consumers' representation could be increased through their participation in public hearings or other processes which were then reflected in regulatory decisions. Examples of such participation were given. It was emphasized that this participation should occur at all stages and be carried out through decentralized civil society bodies belonging to the public administration or specialized agencies for consumer protection.

C. Public policy and capacity-building for rule-making and enforcement

27. The role of Governments, enterprises and consumer associations in the promotion of competition was emphasized. Experts drew attention to the need to intervene in the market as a "driving force" in cases of limited competitive markets and limited demand, and where

there were difficulties in identifying the components of certain goods. Also, consumer associations needed to play a proactive role in protecting consumers.

28. Governments should coordinate their consumer protection activities with entrepreneurs and consumers and trade unions. It was emphasized that consumer protection policies differed among countries and this fact had to be reflected in consumer protection laws. Nevertheless, common features in the approaches to resolving various problems, and the experience accumulated, should be the subject of special studies and international cooperation.

29. In particular, experts noted the need for Governments to play a proactive role instead of preventive and reactive roles. Such a role would involve various phases, including the adoption of real and measurable indicators, monitoring markets and sectors, and introducing efficient mechanisms for dispute settlement and mediation at national level. An effective consumer protection strategy should include the provision of training, the establishment of networks of regulatory agencies, and effective legal frameworks.

30. Information-sharing was discussed as an important aspect of the consumer decision-making process. Consumers should be made aware of their rights under the various legal frameworks governing consumer affairs. The establishment of networking mechanisms to reach rural consumers was seen as an important step in reaching remote areas in developing countries. It was indicated that a recommendation for the establishment of a consumer ombudsman's office to address consumer complaints had been presented to Zambian and Peruvian policy makers for consideration.

31. Examples were given from Zambia, where consumer protection provisions were included in competition law and enforced by the competition agency. It was recognized that dealing with both consumer and competition policies in the same legislation and in one organization posed many implementation and logistical challenges. The solution lay in the formation of strong consumer organizations and lobby groups to address consumer matters.

32. It was noted that different countries were at different stages of implementation of consumer policy. Countries which had recently adopted competition legislation faced two main problems: what approach to adopt and where to start? It was suggested that the main directions were indicated in the UN Guidelines for Consumer Protection as expanded in 1999. In this connection, it was proposed that UNCTAD should provide technical assistance, including through the exchange of experiences among developing countries and economies in transition.

33. The experience gained so far in some regional groupings of developing countries pointed to the need for harmonization of consumer law with minimum substantive provisions. In this connection, the concept of sustainable consumption was an important objective which the Southern Common Market (MERCOSUR) pursued. However, harmonization of national laws might have an impact on the cost for enterprises and might entail obstacles to

competition among enterprises and thus render local products less competitive at the global level.

34. How to achieve a working partnership between the Government and civil society on matters related to consumer protection was also discussed. Civil society organizations in many developing countries complemented and supported government initiatives in this area. It was stressed that such organizations should not compete with the Government but should strive for a healthy dialogue and partnership with it.

Chapter III

ORGANIZATIONAL MATTERS

A. Convening of the Expert Meeting

35. The Expert Meeting on Consumer Interests, Competitiveness, Competition and Development was held at the Palais des Nations, Geneva, from 17 to 19 October 2001.

B. Election of officers

(Agenda item 1)

36. At its opening meeting, the Expert Meeting elected the following officers to serve on its bureau:

Chairperson:	Ms. Shantini Thiruneelakandan (Sri Lanka)
Vice-Chairperson-cum-Rapporteur:	Ms. Kerstin Berglöf (Sweden)

C. Adoption of the agenda and organization of work

(Agenda item 2)

37. At the same meeting, the Expert Meeting adopted the provisional agenda circulated in document TD/B/COM.1/EM.17/1. The agenda for the Meeting was thus as follows:

1. Election of officers
2. Adoption of the agenda and organization of work
3. The role of consumer and competition policies in enhancing competitiveness and development
4. Adoption of the outcome of the Meeting

D. Documentation

38. For its consideration of the substantive agenda item, the Expert Meeting had before it the following documentation:

"Consumer protection, competition, competitiveness and development" (TD/B/COM.1/EM.17/2);

"Recommendations of the Regional Seminar on Consumer Protection, Competition Policy, Competitiveness and Development, held in Cartagena de India, Colombia, from 23 to 25 July 2001" (TD/B/COM.1/EM.17/2/Add.1);

"Recommendations of the Regional Seminar on Consumer Protection, Competition Policy, Competitiveness and Development, held in Accra, Ghana, from 20 to 21 August 2001" (TD/B/COM.1/EM.17/2/Add.2);

"Recommendations of the Asia-Pacific Regional Seminar on New Dimensions of Consumer Protection in the Era of Globalization, held in Goa, India, from 10 to 11 September 2001" (TD/B/COM.1/EM.17/2/Add.3);

"Recommendations of the International Conference on Competition in Countries in Transition, held in Bishkek, Kyrgyzstan, from 1 to 2 October 2001" (TD/B/COM.1/EM.17/2/Add.4).

E. Adoption of the outcome of the Meeting

(Agenda item 4)

39. At its closing meeting, the Expert Meeting authorized the Rapporteur to prepare the final report of the Meeting under the authority of the Chairperson.

Annex

ATTENDANCE *

1. Experts from the following States members of UNCTAD attended the Meeting:

Angola
Argentina
Bahamas
Bangladesh
Benin
Bolivia
Brazil
Brunei Darussalam
Burkina Faso
Burundi
Central African Republic
Chad
China
Colombia
Comoros
Costa Rica
Côte d'Ivoire
Cuba
Democratic Republic of the Congo
Dominican Republic
Egypt
Ethiopia
France
Gambia
Georgia
Germany
Ghana
Guyana
India
Indonesia
Iran (Islamic Republic of)
Italy
Jamaica
Jordan
Kenya
Lao People's Democratic Republic
Libyan Arab Jamahiriya
Madagascar
Malawi
Mexico
Morocco
Mozambique
Myanmar
Nepal
Niger
Nigeria
Norway
Peru
Philippines
Romania
Russian Federation
Rwanda
Saudi Arabia
Senegal
Spain
Sri Lanka
Sweden
Syrian Arab Republic
Tunisia
Turkey
Uganda
United Kingdom of Great Britain and Northern Ireland
United Republic of Tanzania
United States of America

* For the list of participants, see TD/B/COM.1/EM.17/INF.1.

Uruguay
Venezuela
Yemen
Zambia
Zimbabwe

2. The following intergovernmental organizations were represented at the Meeting:

Arab Labour Organization
South Centre

3. The following specialized agencies and related organization were represented at the Meeting:

International Monetary Fund
United Nations Industrial Development Organization
World Trade Organization

4. The following non-governmental organizations were represented at the Meeting:

General Category

Exchange and Cooperation Centre for Latin America
Europe-Third World Centre
International Chamber of Commerce
International Confederation of Free Trade Unions
Consumers International
International Organization for Standardization

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Item 2 of the provisional agenda

PROVISIONAL AGENDA AND ANNOTATIONS

I. PROVISIONAL AGENDA

1. Election of officers
2. Adoption of the agenda and organization of work
3. The sustainable use of biological resources: Ways to enhance the production and export capacities of developing countries of agriculture and food products, including niche products, such as environmentally preferable products (EPPs)
4. Analysis of ways to enhance the contribution of specific services sectors to the development perspectives of developing countries: Energy services in international trade: development implications
5. Analysis of market access issues facing developing countries: Consumer interests, competitiveness, competition and development
6. Progress report on the implementation of agreed conclusions and recommendations of the Commission
7. Provisional agenda for the seventh session of the Commission
8. Other business
9. Adoption of the report of the Commission to the Trade and Development Board.

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II. ANNOTATIONS TO THE PROVISIONAL AGENDA

1. The Conference, at its tenth session, held from 12 to 19 February 2000 in Bangkok (Thailand), in considering the issue of UNCTAD's intergovernmental machinery, welcomed the document prepared by the UNCTAD secretariat entitled "Improving the functioning and the structure of the intergovernmental machinery of UNCTAD" (reissued in TD/B/EX(24)/L.1). The purpose behind the recommendations contained in that document was *inter alia* to enhance the status of the Commissions as policy-formulating organs and to strengthen the substantive linkages between expert meetings and Commissions. It was recommended that the Commissions' work should be informed by the technical advice of the experts, that the Commissions should place the results of expert meetings within the appropriate policy context and framework, and that, on the basis of the expert reports and their own policy dialogue, the Commissions should make recommendations on actions to be taken by member States, UNCTAD or other bodies.

2. To this end, the Commission will have before it the reports of the expert meetings held during the previous months, as well as documentation prepared by the secretariat identifying, and commenting on, the policy questions posed by the expert reports for discussion by the Commission. In this connection, the outcomes of the expert meetings were circulated by the secretariat to member States with a request for policy comments on the experts' recommendations. The task of the Commission is to conduct policy dialogue and make policy recommendations on the outcome of the expert meetings, taking into account the views from the capitals.

Item 1: Election of officers

3. In accordance with rule 18 of the rules of procedure of the main Committees of the Trade and Development Board, the Commission shall elect a Chairman, five Vice-Chairmen and a Rapporteur from among the representatives of its members, taking into account the need to ensure equitable geographical distribution. Rule 19 of the rules of procedure states that the Bureau of the Commission shall consist of seven members (i.e. four members from Lists A and C combined, two members from List B and one member from List D referred to in the annex to General Assembly resolution 1995 (XIX) as amended).

4. Accordingly, following the cycle of rotation established after UNCTAD X, the bureau for the sixth session of the Commission shall be as follows: Chairman from List B, Rapporteur from List A (Asia); and five Vice-Chairmen (three from lists A and C combined, one from List B and one from List D).

Item 2: Adoption of the agenda and organization of work

5. At the closing plenary of its fifth session, on 23 March 2001, the Commission approved the provisional agenda for its sixth session.

6. Concerning the organization of the work of the session, the Commission will have five days available to it. It is suggested that the agenda items be taken up sequentially, with the first plenary meeting on Monday, 4 February, being devoted to procedural matters, introductory statements and the commencement of the discussion under item 3. The last plenary meeting, on Friday, 8 February, would be devoted to the formal action under items 3 - 9.

7. The secretariat will prepare a detailed programme for the session, which will be made available on the first day of the session.

Documentation

TD/B/COM.1/44	Provisional agenda and annotations

Item 3: The sustainable use of biological resources: Ways to enhance the production and export capacities of developing countries of agriculture and food products, including niche products, such as environmentally preferable products (EPPs)

8. This item will provide an opportunity to examine possible avenues for future action aimed at strengthening production and export capacities of developing countries of agricultural and food products and environmentally preferable products, in particular organic produce. The expected outcome is recommendations for actions to be taken by Governments at the national, regional and multilateral levels and by international agencies, including UNCTAD to (a) address production and export constraints of developing countries; (b) foster quality and product differentiation; and (c) create and help seize export opportunities for agriculture and food products, including organic produce. Capacity-building needs in different regions will also be highlighted, with special attention given to LDCs.

Documentation

TD/B/COM.1/45	Note by the UNCTAD secretariat
TD/B/COM.1/41 TD/B/COM.1/EM.15/3	Report of the Expert Meeting on Ways to Enhance the Production and Export Capacities of Developing Countries of Agriculture and Food Products, including Niche Products, Such as Environmentally Preferable Products

Item 4: Analysis of ways to enhance the contribution of specific services sectors to the development perspectives of developing countries: Energy services in international trade: development implications

9. This item will help examine how the outcome of the Expert Meeting could be put into action so as to help developing countries achieve the following objectives: (a) ensuring more

reliable and efficient access to energy for all segments of the population; (b) strengthening their competitive position in the supply of energy services at the various stages of the energy chain; and (c) negotiating commitments and additional provisions in the multilateral negotiations on trade in services supportive of the above-mentioned objectives. The experts identified areas where further analytical work and follow-up actions are needed. The discussion under this agenda item will provide an opportunity for the Commission to take decisions regarding priority areas of work for the UNCTAD secretariat in this field.

Documentation

TD/B/COM.1/46	Note by the UNCTAD secretariat
TD/B/COM.1/42 TD/B/COM.1/EM.16/3	Report of the Expert Meeting on Energy Services in International Trade: Development Implications

Item 5: Analysis of market access issues facing developing countries: Consumer interests, competitiveness, competition and development

10. The Expert Meeting on Consumer Interests, Competitiveness, Competition and Development noted that properly implemented competition and consumer policies can make a key contribution to competitiveness and sustainable development. On the basis of the outcome of the Expert Meeting, the Commission will have an opportunity to recommend the follow-up action that needs to be taken in this field at national and international levels. In this connection, the Commission may wish to request UNCTAD to promote consumer interests and monitor implementation of the UN Guidelines on Consumer Protection; to provide member countries upon request with technical assistance to adopt, reform and better implement appropriate laws and policy in this field; and to further study the interface between competition, consumer interests, competitiveness and development by focusing on how markets can integrate the informal sector, better work for the poor and generate growth, employment and export opportunities.

Documentation

TD/B/COM.1/47	Note by the UNCTAD secretariat
TD/B/COM.1/43 TD/B/COM.1/EM.17/4	Report of the Expert Meeting on Consumer Interests, Competitiveness, Competition and Development

Item 6: Progress report on the implementation of agreed conclusions and recommendations of the Commission

11. The note on "Improving the functioning and the structure of the intergovernmental machinery of UNCTAD" (TD/B/EX(24)/L.1), re-endorsed by the Board at its twenty-sixth

executive session on 10 April 2001, states: "Starting with the second session of each Commission, the fifth day of the session will be used for policy reviews of implementation by member States and the secretariat of the outcome of previous sessions, on the basis of documentation produced by the secretariat."

12. With regard to the implementation of the outcome of the fifth session of the Commission by the secretariat, the secretariat will provide the Commission with a report on its activities in that connection. Concerning implementation by member States, those member States wishing to do so will have an opportunity to present their experience to the Commission.

13. The attention of the Commission is also drawn to the decision adopted by the Trade and Development Board at its twenty-fourth executive session on 12 May 2000 by which the Trade and Development Board decided *inter alia* to "conduct in the second quarter of the year 2002 a mid-term review of the work of UNCTAD, based on the indicators of achievement agreed to in the medium-term plan (2002-2005)". The Commission's attention is drawn in particular to indicator (b) from the Medium-term Plan 2002-2005, which comprises "Member States' views on the practical value and impact on the development prospects of developing countries of policy recommendations, as expressed in the conclusions of the regular review of the work undertaken by intergovernmental bodies". The views and conclusions of the Commission under this topic will therefore serve as inputs to the mid-term review.

Documentation

TD/B/COM.1/48	Progress report on the implementation of agreed conclusions and recommendations of the Commission

Item 7: Provisional agenda for the seventh session of the Commission

14. A draft provisional agenda for the seventh session of the Commission will be submitted for consideration and approval.

Item 8: Other business

Item 9: Adoption of the report of the Commission to the Trade and Development Board

15. The report of the Commission on its sixth session will be submitted to the Trade and Development Board for consideration.

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WAYS TO ENHANCE THE PRODUCTION AND EXPORT CAPACITIES OF DEVELOPING COUNTRIES OF AGRICULTURE AND FOOD PRODUCTS, INCLUDING NICHE PRODUCTS, SUCH AS ENVIRONMENTALLY PREFERABLE PRODUCTS

Note by the UNCTAD secretariat

CONTENTS

Chapter		Page
	Introduction	2
I.	Recommendations at the national level	3
II.	Recommendations to the international community	6
III.	Recommendations to UNCTAD	9

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INTRODUCTION

1. The Expert Meeting on "Ways to Enhance the Production and Export Capacities of Developing Countries of Agriculture and Food Products, Including Niche Products, Such as Environmentally Preferable Products" was held in Geneva from 16 to 18 July 2001.[1] The emphasis was on identifying the critical constraints on establishing a strong production and export capacity, and making proposals on policies and strategies for addressing those constraints. The meeting covered in particular: (a) trends in world trade in food and agricultural products; (b) production and export constraints of developing countries; (c) quality and product differentiation; and (d) organic food and agricultural products. Participants included policy makers, non-governmental organizations, academics, the business community (including certification bodies and producer organizations), international organizations and the International Federation of Organic Agricultural Movements (IFOAM).

2. To assist the experts in their discussions, document TD/B/COM.1/EM.15/2 was circulated in advance of the meeting. The recommendations of the experts and the Chairperson's summary are contained in the report of the meeting (TD/B/COM.1/41 and TD/B/COM.1/EM.15/3). These reflect individual experts' views and policy options for Governments, the international community and UNCTAD regarding ways to enhance developing countries' capacities for the production and export of agriculture and food products, including niche products, such as environmentally preferable products (EPPs). In addition, a wealth of information was presented at the meeting, including over 20 papers submitted by experts.

3. The Commission's task is to turn the outcome of the meeting into agreed conclusions and recommendations for policy action at the national and international levels, including for UNCTAD. The present document attempts to facilitate that task by highlighting important areas for policy action that emerged from the Expert Meeting's discussions and outcome and by providing information on certain recent activities by the secretariat. The secretariat issued a communication, dated 27 August 2001, inviting comments on the outcome of the meeting, in particular relating to the following:

- Relevant policy measures that have been or will be undertaken at the national level;
- Relevant initiatives at the international and regional levels that have been or should be launched and/or supported;
- Elements of the outcome that would require follow-up actions by the Commission in the next two years;
- Proposals on a work programme to implement experts' recommendations;
- Needs for specific technical assistance programmes arising from the outcome.

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[1] This Expert Meeting related to two sections in the Plan of Action adopted at UNCTAD X: "Strengthening supply capacities in export-oriented sectors of commodities" and "Trade and environment". Under the Plan of Action, UNCTAD's work on commodities should, among other things, focus on "Identifying ways to improve the supply capacity of commodity-producing countries, as well as obstacles hampering the development of processing industries, and assisting commodity-dependent countries on how to fully exploit commodity diversification as a major potential avenue to industrialization" (paragraph 144). Furthermore, UNCTAD's work on trade and environment should among other things focus on "supporting developing countries' efforts in promoting production of and trading opportunities for environmentally preferable products" (paragraph 147).

4. At the time of the drafting of this document, no formal comments had been received in response to the above-mentioned communication. Following the Expert Meeting cooperation with several institutions has been initiated or strengthened by the secretariat.

5. Many of the recommendations that were made concern ways to enhance the production and export capacities of developing countries in respect of all agricultural products. However as the case of organic products presented an added element of focus, these recommendations are sometimes formulated in that context.

Chapter I

RECOMMENDATIONS AT THE NATIONAL LEVEL

A. Agriculture in general

6. Experts pointed out that the share of developing countries in traditional commodity markets had declined by about a fifth since the early 1970s. Only a few developing countries had benefited from the growth in dynamic products, such as vegetable oils, vegetables, fish, cut flowers and poultry. Governments should therefore support the development of the agriculture sector, in particular the production of high-value products, improvement of quality and better participation in global value chains. In this respect, they should:

Strive for a supportive international trading system by

- Defending national and business interests strongly at the World Trade Organisation and providing WTO-acceptable support to the agriculture sector, in particular for research and development and quality assurance;

Provide economic and institutional support, such as

- Taking fiscal and other measures to attract investment and technologies into new areas and taking into account the views of professional associations in formulating support policies and measures;
- Putting in place legal and institutional structures for new forms of finance such as warehouse receipts, and encouraging banks to provide finance to diversifying enterprises;
- Identifying appropriate policies to address the deterioration of terms of trade between agricultural and manufactured products;
- Assisting in the dissemination of market information;
- Facilitating the development of clusters that strengthen linkages in the economy. (As seen in several developing countries, such natural-resource-based growth poles can provide significant dynamism for structural change.)

B. Organic agriculture

7. Experts paid special attention to options for enhancing production and trading opportunities for organic agriculture. Policies to promote production and exports of organic products should, however, be put in perspective, as organic agricultural markets were still small and in most countries represented less than 2 per cent of total demand for food products.[2]

8. Experts emphasized the importance of well-defined policies, including institutional support and export promotion, to strengthen developing countries' capacities to take advantage of trading opportunities for organic products as well as other agricultural products. They recommended that Governments put in place supportive policies and play a proactive role in promoting development of the organic sector. Governments should take the following actions in several areas, including:

Increasing awareness and overall support

- Increasing awareness of the environmental, economic and other benefits of organic agriculture and non-wood forest products, as well as trading opportunities for developing countries;
- Promoting national multi-stakeholder committees to develop organic policies and a national plan for the organic sector;

Standards and certification infrastructure

- Designing, implementing and enforcing national and regional standards, based on international standards such as the IFOAM Basic Standards;
- Promoting certification infrastructure, including local certification bodies, in particular where there is a potential for significant organic production and exports;

Financial incentives and support

- Designing subsidies or incentive systems to support development of the organic sector;
- Where possible, providing financial support to farmers, particularly during conversion periods;

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[2] The International Trade Centre UNCTAD/WTO pointed out that organically grown products currently accounted for approximately 1 - 2 percent of total food sales in most developed countries, and amounted to about US$ 17.5 billion per year. The size of the organic market had grown substantially over the last decade. Although no systematic production and trade statistics on organic products were available, estimates suggested that certified organic production existed in more than 140 countries, including 90 developing countries, of which 20 were Least Developed Countries. Global demand was forecast to increase annually by 15 - 20 per cent in the medium term. Fresh fruits, tropical beverages, spices, grains and sugar appeared to be among the most promising products for developing country producers and exporters.

Scientific and technical support

- Providing training and technical advice on organic farming practices through agricultural extension services and developing information networks among farmers;
- Promoting research into organic seeds, pest control and fertilizers adapted to local conditions;

Market development support

- Promoting suitable marketing strategies and partnerships;
- Supporting the development of a domestic market for organic agricultural products.

Chapter II

RECOMMENDATIONS TO THE INTERNATIONAL COMMUNITY

A. Agriculture in general

9. Experts addressed several recommendations to the international community to support the efforts of developing countries, particularly LDCs, to develop supply capacities and improve market access and market entry conditions for agricultural products.

10. Regarding market access and entry conditions, the international community should:

- Eliminate all protectionist barriers to trade and simplify and harmonize standards, based on international standards.

11. Regarding the development of supply capacities, the provision of financial and technical support, and the importance of certain modalities and specific forms of assistance, were highlighted. In this connection, the international community should take measures aimed at:

- Assisting producers and processors in meeting standards and quality requirements, and providing financial and technical support to research and extension, as well as to the procurement of high-quality inputs;
- Supporting capacity building in all areas, from production to marketing and finance, and including stakeholders in designing assistance;
- Providing financing directly to the private sector, including for venture capital, and supporting participation in trade fairs;
- Increasing official development assistance to agriculture and strengthening the resources of the Common Fund for Commodities in order to increase its role in enhancing the productive capacities of developing countries.

B. Organic agricultural production and trade

12. Experts also made specific recommendations to support the efforts of developing countries, particularly LDCs, to derive economic, social and environmental benefits from organic agriculture and trade. Access to markets for food products, including organic products, was of key importance for developing countries' exporters. A number of experts noted that problems that affected most agricultural and food exports of developing countries included, the very large number of standards set by governmental and private bodies, divergent certification requirements, and multiple subsidies and preference for locally produced organic products. Trade policy issues included technical assistance under the Agreement on Technical Barriers to Trade and the Agreement on the Application of Sanitary and Phytosanitary Measures, harmonization of standards, equivalence, subsidies, non-trade concerns and tariff-rate quotas (in the Agreement on Agriculture), and possible trade preferences. As regards the latter, some experts referred to the option of granting special quotas for organic produce within tariff-rate quota systems and the inclusion of organic products in the Generalized System of Preferences.

Developing standards and reducing certification costs

13. According to many experts, a key question was how to reduce the costs of certifying organic producers, particularly smallholders, in developing countries. Experts recommended that possible actions by the international community could focus on:

- Reducing costs of certification of organic producers in developing countries by (i) setting up local certification systems, (ii) promoting smallholder certification, and (iii) reducing the costs of international accreditation for certifiers in developing countries;
- Assisting developing countries in designing national and regional organic standards, based on international standards such as the IFOAM Basic Standards and the Codex Alimentarius Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods;
- Including non-wood forest products in existing labelling and certification schemes for organic products.

Facilitating access to organic markets in developed countries

14. Experts recommended a number of actions that could be taken by developed countries, in particular:

- Ensuring transparent and simple rules and requirements governing imports of products for sale in their organic markets, including through the application of the concept of equivalence;
- Providing information on organic standards and regulations, market opportunities and other factors relevant to exporters from developing countries;
- Extending benefits to organic agricultural products in preferential trade arrangements.

Harmonization of standards

15. Many experts expressed concern that the plethora of standards and regulations at the international, regional and national levels creates difficulties for exporters, particularly those from developing countries. Currently, there are hundreds of private sector and government standards.[3] Most standards are based on the IFOAM Basic Standards and the Codex Alimentarius Guidelines. Thus, they are similar but not identical. These systems have developed in parallel with little interaction or consultation. The problem is not so much their divergent nature, as the lack of appropriate mechanisms to establish equivalence.

16. More work is needed on harmonization and equivalence of standards. However, negotiating bilateral mutual recognition agreements between countries is a time-consuming process. Experts therefore recommended that the international community promote and facilitate a framework of harmonization, including the IFOAM Basic Standards and

[3] This scenario is further complicated by a multitude of governmental approval systems for domestic and foreign certification, and several accreditation systems.

Accreditation Programme, which establishes a framework for mutual recognition between IFOAM-accredited certifiers.

17. UNCTAD could contribute to international efforts in this regard. The UNCTAD secretariat has accepted an invitation by IFOAM to cooperate closely in the organization of a Conference on "international harmonization and equivalence in organic agriculture", to be held in Nuremberg, Germany, on 18 and 19 February 2002.

Trade policy issues

18. In addition to the above-mentioned reference to harmonization of standards, experts made certain recommendations that are relevant in the area of trade policy, including discussions in the WTO. These include:

- Facilitating technical assistance, including under the Agreement on Technical Barriers to Trade and the Agreement on the Application of Sanitary and Phytosanitary Measures, to help developing countries meet organic standards in international markets as well as participate in international standard-setting bodies;
- Carefully examining the implications, if any, for developing countries of subsidies to assist farmers in converting to organic production and in post-conversion support programmes;
- Identifying and helping to develop the proper support and incentive mechanisms for the development of strong organic production systems in developing countries, especially to assist farmers in converting to organic production.

Chapter III

RECOMMENDATIONS TO UNCTAD

A. Recommendations by experts

19. Experts recommended that UNCTAD should, in cooperation with International Trade Centre, Food and Agricultural Organization of the United Nations, IFOAM, United Nations Environment Programme (UNEP) and other relevant institutions, contribute to the development of the supply capacity of developing countries and assist them in deriving advantage from growing markets for agricultural products, including organic products, and non-wood forest products. Such recommendations covered a number of activities, in particular:

Policy analysis

20. Recommended activities include:

- Providing market analysis and strategies, including through the enhanced use of electronic commerce;
- Carrying out analysis and promoting policy dialogues on agricultural trade and sustainable development aspects of organic agriculture.

Technical cooperation projects

21. Recommended activities include:

- Undertaking surveys to identify production and export opportunities;
- Implementing pilot projects to assist in the design and execution of diversification programmes;
- Implementing pilot projects on innovative financing such as warehouse receipts;
- Promoting national and regional capacity building projects, in particular in the framework of the UNEP - UNCTAD Capacity Building Task Force on Trade, Environment and Development (CBTF), to support interested developing countries in promoting trading opportunities for EPPs;
- Promoting and facilitating of the creation of local and regional certification bodies in developing countries, particularly LDCs;
- Further developing of the TRAINFORTRADE 2000 Module on Trading Opportunities for EPPs.

International cooperation on standard-related issues

22. Experts recommended that UNCTAD, in cooperation with other organizations, explore ways to promote the practical application of the concept of equivalence and mutual recognition between governmental and private sector standards for agricultural products in general and organic produce in particular.

B. Possible follow-up activities

Diversification and commodity based development

23. Since the beginning of 2001, UNCTAD has been implementing a project entitled "Capacity building for diversification and commodity based development", the aim of which is to assist developing countries' efforts directed towards horizontal, vertical and geographical diversification of production and trade structures. [4] Agriculture, particularly the horticultural sector, has been the main focus of this project. In this connection, six regional workshops have already been organized: three in Africa and one each in Asia, Latin America and the Pacific region. In addition, several national workshops are planned in order to respond to specific needs expressed by individual countries or small groups of countries. These needs, in most cases, are closely related to the recommendations of the experts. However, crucial country-level implementation of follow-up activities will depend on the availability of finance.

24. The experts' discussions and proposals at the Expert Meeting of the experts have been taken into account in the implementation of this project.

UNEP - UNCTAD Capacity Building Task Force on Trade, Environment and Development

25. An important aim of the CBTF is to support interested developing countries in promoting trading opportunities for EPPs, particularly by organic products, non-wood forest products and products based on the use of traditional knowledge. As part of the CBTF, a special programme been designed to help meet the needs of LDCs.[5]

26. A number of developing countries, including LDCs, have proposed projects aimed at enhancing the production and export of EPPs, particularly organic products, for implementation in the framework of the CBTF. At the time of the drafting of this document, a CBTF workshop was being prepared to discuss *inter alia* policy options to create and to seize trading opportunities for organic agricultural products from developing countries.[6] The workshop may provide an impetus for the design and implementation of CBTF-supported activities in this area.

Least developed countries

27. The Commission may wish to invite member States to support ongoing activities and new initiatives by the secretariat to help implement relevant commitments undertaken at the Third Unted Nations Conference on the Least Developed Countries, in the areas of strengthening commodity supply capacities and promoting trading opportunities for EPPs.

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[4] For information, see http://www.unctad.org/infocomm/Diversification/index.htm

[5] For more information in this regard, see www.unep-unctad.org/cbtf/

[6] The workshop is being funded by a grant from the European Commission to the CBTF project "Research and policy dialogue on promoting trading opportunities for environment-friendly products, in particular organic agricultural products".

28. These include initiatives in the areas of diversification of commodities and of the special programme for LDCs developed under the joint UNEP - UNCTAD CBTF, particularly with regard to organic products and traditional knowledge.[7]

[7] Experts emphasized the need to support "LDCs' efforts to develop and take advantage of niche markets for ... organic products and handicrafts, as well as cultural products" (paragraph 68(bb) of the Programme of Action for the Least Developed Countries for the Decade 2001 - 2010).

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ANALYSIS OF WAYS TO ENHANCE THE CONTRIBUTION OF SPECIFIC SERVICES SECTORS TO THE DEVELOPMENT PERSPECTIVES OF DEVELOPING COUNTRIES: ENERGY SERVICES IN INTERNATIONAL TRADE: DEVELOPMENT IMPLICATIONS

Note by the UNCTAD secretariat

CONTENTS

		Page No.
I.	Background	2
II.	Areas for further action: Policy proposals based on the experts' discussions	7

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I. BACKGROUND

A. Mandate

1. During the open-ended consultations carried out by the President of the Trade and Development Board on 30 January 2001, it was decided, in accordance with the Bangkok Plan of Action as contained in document TD/386, to convene an Expert Meeting on Energy Services in International Trade: Development Implications. The Commission on Trade in Goods and Services, and Commodities endorsed this decision at its fifth session (19–23 February 2001).

B. Organization of the Expert Meeting, and attendance

2. The Expert Meeting attracted considerable attention. In fact, it was the first intergovernmental gathering on the specific issue of international trade in energy services. The study prepared by the secretariat for the meeting was equally one of the first analytical studies carried out on the sector. The majority of participants evaluated the study as "very useful" and most experts rated it as either "excellent" or "good" as far as "originality of ideas", "wealth of information", "quality of analysis" and "validity of conclusions" were concerned. Only one expert found that the study was "not useful". The study and the Outcome of the Expert Meeting were made available to the Council for Trade in Services of the World Trade Organization (WTO) at its session held in October 2001.

3. The Expert Meeting was attended by over 110 representatives of 48 countries (27 developing countries, seven LDCs, four countries with economies in transition and ten developed countries). UNCTAD sponsored the participation of four representatives from developing countries (Bolivia, India, Kenya and Peru) and three from least developed countries (Angola, Bhutan and Burundi). All countries that play a major role in the energy services market were represented, as well as those countries that had submitted proposals on energy services in the framework of the ongoing General Agreement on Trade in Services (GATS) negotiations. There was also considerable representation from international organizations, including the WTO, the Organisation for Economic Co-operation and Development, the European Commission, the Inter-American Development Bank, the European Charter Secretariat, the UN Economic Commission for Europe, the UN Economic and Social Commission for Western Asia and the UN Department for Economic and Social Affairs. Academia and civil society were also represented. A number of delegations, such as those of the European Commission, Kenya, the United States and Venezuela, consisted of several delegates, including private sector representatives.

4. At the time of publication of this note, the secretariat had received two policy comments - from Colombia and Bolivia - on the Outcome of the Expert Meeting. Colombia agreed with the Outcome, including the items identified by the experts for future action under "Analytical work" and "Follow-up actions". It suggested that UNCTAD could analyse the cases of several countries, including Colombia itself, which had recently implemented structural reform in the energy sector. This analysis could be conducive to an exchange of views on the different liberalization models which have been utilized, as well as to finding solutions to the problems which have appeared during the reform process. UNCTAD could set up a roster of experts who could provide advice to developing countries that are in the process of reforming their energy sector. Colombia also suggested the establishment of a

support programme for interconnectivity projects, which are the precondition for integration of the energy markets. Schemes for the transfer of technology from private firms in developed countries to public enterprises in developing countries should be established in order to foster developing country competitiveness. Lastly, Colombia agreed on the need for UNCTAD to continue providing technical cooperation and policy advice aimed at protecting Governments and private users against the risk of high price volatility.

5. The comments provided by Bolivia referred to the electricity subsector. On the issue of small and medium-sized enterprises (SMEs), Bolivia indicated that the strengthening of SMEs' participation in that subsector would entail an analysis of the subsector in each country, especially its structure and legal framework. Bolivia agreed with the conclusions reached by the experts regarding the critical importance of technology transfer and the suitability of renewable energies for addressing the problem of electricity shortages, especially in rural areas. It believed that the creation of local venture funds should be encouraged, and that multilateral financial institutions should contribute to setting them up. It also agreed that in most energy-related studies the energy services component had been neglected, and stressed that representatives of the regulatory authorities should be involved in future UNCTAD workshops and seminars on the energy services sector.

C. The main issues arising from experts' discussions

6. A series of issues emerged from the debate which was organized around three broad themes: sectoral markets for energy and energy services; energy services in the GATS and the ongoing debate in the WTO; and implications for developing countries.

7. Under the first theme, it was noted that the energy sector has the potential to greatly contribute to the economic growth of all countries and to international trade. Experts pointed out that energy is one of the most important drivers of economic development and is a key determinant for the quality of our daily lives. Energy services play a crucial role in providing efficient access to energy in support of development and constitute the value added in the energy chain, from exploration to consumption. Energy is probably the biggest business in the world economy, with a turnover of at least US$ 1.7–2 trillion a year. According to some estimates, global investment in energy between 1990 and 2020 will total some US$ 30 trillion at 1992 prices.

8. Developing countries are thus faced with the challenge of, on the one hand, achieving more reliable and efficient access to energy, and, on the other hand, of obtaining a greater share of the energy business. To facilitate the achievement of these goals, both the regulatory regime and the physical infrastructure need to be developed and/or strengthened. Third-party access – competitors' legal entitlement to use the transmission network – was regarded by the experts as precondition for creating competitive cross-border energy markets. Cross-border energy transit – the transit of energy through intermediate countries – was also discussed. Experts commented that unfair "transit" charges should be avoided, but the interests of the transit countries have to be taken into account. They agreed that the liberalization of the energy sector does not mean lack of regulations; on the contrary, it should be carried out under the appropriate regulatory framework with a view to ensuring the achievement of national policy objectives, including public services obligations and the establishment of fair competition conditions. It was noted that the demand for energy, the liberalization of energy markets and the introduction of new technologies would combine to create a dynamism in

trade and investment in the energy sector even greater than that experienced by the telecommunication sector in the previous decade.

9. Discussion under the second theme provided an opportunity to present and analyse the six negotiating proposals on energy services that had been submitted in the GATS negotiations by Canada, Chile, the European Communities, Norway, the United States and Venezuela.[1] A series of issues emerged from the debate, including transfer of technology, strategic alliances between domestic and foreign firms, and other measures to strengthen energy services in line with Articles IV and XIX:2 of the GATS; the problems that the existing classification may pose for scheduling meaningful commitments; and the possible need to develop an additional legal instrument for the sector to address its particular features. The issue of the participation of SMEs in the energy services market was analysed. Experts mentioned the following as being among the specific difficulties faced by SMEs: demand volatility, and the consequent lack of transparency and predictability in the business environment; large capital requirements; weak linkages with international markets; scarce information about commercial opportunities abroad; and the difficulty in finding highly trained personnel. Moreover, SMEs have difficulties in establishing a good reputation and gaining customer confidence in key areas such as quality, health, safety and environmental protection capabilities. The debate served to demonstrate the wide scope and economic and political implications of any negotiations under the GATS in the energy services sector.

10. A large number of interventions were made under the third theme, several of which described the dramatic situation of large segments of the population in developing countries that had virtually no access to commercial energy, with severe repercussions for the quality of life, health and sustainable development. The experts noted that the provision of adequate, affordable energy is essential for eradicating poverty, improving human welfare and raising living standards worldwide, and is a precondition for industrial development and for attracting foreign investment. Countries, especially the developing ones, have to identify mechanisms for linking energy and development and ensuring that the energy sector contributes to their economic development.

11. At the initiative of the Chairman of the Expert Meeting (H.E. Ambassador Werner Corrales of Venezuela), the Outcome of the Meeting departed slightly from the format usually adopted at Expert Meetings, particularly in its emphasis on future analytical work and follow-up actions. This arose from the general perception that little was known about the energy services sector, particularly its global structure and its contribution to the economy. A large number of proposals were submitted with regard to future areas for research and analysis.

II. AREAS FOR FURTHER ACTION: POLICY PROPOSALS BASED ON THE EXPERTS' DISCUSSIONS

A. Policy instruments and strategies

11. The experts made *inter alia* a number of suggestions for consideration by Governments, which are set out below.

[1] An additional proposal on energy services was submitted by Japan in October 2001.

12. Action is needed to promote wider and more efficient and affordable access to energy for people and industry, especially in developing countries. Among other means, this can be achieved through regulatory reform and by creating an environment which attracts domestic and foreign investors. Multilateral, regional and bilateral financial resources should be provided, whenever possible, for achieving the goal of making energy available to the poor.

13. Experts, especially from developing countries, emphasized that measures are needed to increase the competitiveness of suppliers of energy services in developing countries, and to foster development of the networks of SMEs so that those suppliers can increase their share in the energy services market and provide a source of innovation. Strategic alliances between local and foreign firms and between large companies and SMEs should be encouraged in order to enable the identification of market opportunities. The participation of local knowledge and talent should serve to build trust and long-standing business relationships. Large companies' purchasing practices can provide a stimulus for SMEs. Special loans should be made available to support the development of local entrepreneurship and address cash-flow shortcomings.

14. The experts emphasized that progressive liberalization of market access conditions for energy services should be pursued, taking into account differences among countries in their level of development, regulatory frameworks and market realities.

15. Experts noted that transfer of technology in the energy sector is essential. However, the technology that is transferred should be appropriate to the situation of the receiving country in terms of level of development and environmental situation. Local firms should contribute to making foreign technology suited to domestic conditions and benefit from technological spillover. Access to technology should be affordable, and may include licensing or other procedures relating to its use.

16. Temporary admission of specialized equipment could facilitate the provision of energy services. It was noted that Governments sometimes allow foreign companies to import the necessary equipment duty-free. Local firms, however, do not benefit from this advantage, and this has negative implications for their competitiveness. Therefore, the same treatment should be made available to all companies operating in the sector.

B. International trade negotiations

17. Experts expressed the view that multilateral and regional negotiations on energy services should be pursued in recognition of the role that energy plays in development and taking into account the development policies and objectives of developing countries.

18. Experts addressed a number of issues that are under discussion in the GATS negotiations in the light of the current negotiating proposals. These included proposals for clarification of the scope of energy services and improvement of current classification, the development of a "checklist" which could be used as a tool to facilitate negotiations at the multilateral and regional levels, the suitability of developing an instrument specific to the energy services sector and comparable to the Reference Paper on Basic Telecommunications, and its possible content. Experts mentioned rules on competition and some conditionalities to link the opening of the energy sector with development as the possible content of the reference paper. However, some experts expressed different positions with respect to these

issues. The importance of preserving the legal certainty of the WTO Members' commitments under the current classifications was emphasized. Also, it was stressed by some that classification should take into account the specificity of different energy markets in terms of differences in energy sources and diversity of regulatory frameworks.

C. Analytical work

19. Experts noted that in most energy-related studies the energy services component has been neglected, and the ongoing international negotiations on energy services would be greatly facilitated by analytical work in this area and by data about market reality.

20. Experts identified a number of areas for further study and analysis. It was made clear that the Commission on Trade in Goods and Services, and Commodities would have to take decisions regarding priority areas where UNCTAD may carry out additional analytical work, namely:

(a) Analysis of the main structural characteristics of the energy services markets; key aspects of technological change; and the role of international and national standards and regulations on trade in energy services. These studies could contribute to the assessment of trade in services that the WTO Council for Trade in Services is carrying out at present;

(b) National experiences with structural reform of the energy sector in developing countries, and potential difficulties and opportunities for domestic energy services suppliers resulting from it; analysis of the impact of energy-related subsidies on development and trade;

(c) Compilation and analysis of a list of successful experiences of developed and developing countries in the energy sector from the investment, technology, enterprise development and other viewpoints. This could include the role of SMEs in the energy services sector, and possible disciplines to strengthen them and further their market participation;

(d) Analysis of the main issues as identified in the current GATS negotiating proposals on energy services and their possible implications for developing countries, taking into account the overall framework of WTO disciplines and the ongoing services negotiations;

(e) Analysis of issues arising from cross-border transit of energy.

D. Follow-up actions

21. Experts identified a number of areas where further action is needed. It was agreed that the Commission on Trade in Goods and Services, and Commodities would have to take decisions regarding priority areas where UNCTAD may take action, namely:

(a) Organizing workshops and seminars on different aspects of the energy services;

(b) Promoting dialogue and exchange of experiences between private firms, particularly SMEs, and the public sector on energy services and related issues;

(c) Exploring the interest of other relevant international organizations, such as the Organization of the Petroleum Exporting Countries (OPEC) and the Energy Charter Secretariat, as well as the UN regional commissions, in carrying out studies in cooperation with UNCTAD in the area of energy services with a specific focus on development and trade;

(d) Exploring the interest of international financial institutions in developing, in cooperation with UNCTAD, methodological tools for assessing the impact of investment and production in the energy services sector on economic growth, and formulating development policies in this sector;

(e) Continuing to provide technical assistance and policy advice through relevant mechanisms to producers and users of oil and gas in developing countries, in particular in the context of implementing privatization and liberalization schemes, aimed at protecting Governments and private users and consumers against the risks of high price volatility.

22. The experts welcomed the kind offer made by the representative of the UN Economic and Social Commission for Western Asia (ESCWA) to host a meeting in Beirut (Lebanon) to continue the discussions on some of the issues raised during the course of the Expert Meeting.

23. The UNCTAD secretariat has already started taking steps in some of the areas identified by the experts under "Follow-up actions". The UNCTAD and OPEC secretariats are in the process of establishing a joint cooperation programme that includes analytical activities as well as capacity-building initiatives in the area of trade and finance. A "Memorandum of Understanding for a joint cooperation programme between OPEC and UNCTAD" will most likely be signed before the end of 2001. In addition, UNCTAD has been in contact with the representatives of ESCWA to follow up on the offer to host a meeting on energy-related issues in Beirut.

24. In view of the novelty and complexity of the issues related to the energy services sector and its trade and development implications, and of the need identified by the experts for further action, it might be appropriate for UNCTAD to continue working on this theme by carrying out activities aimed at contributing to a better understanding among the relevant stakeholders of the issues at stake, offering a forum for the exchange of experiences among policymakers and researchers, and providing capacity-building opportunities. At present, no other intergovernmental organizations are specifically doing so; and the work that UNCTAD has been carrying out in this field has been highly appreciated by both developing and developed countries, and by academia. Topics for in-depth analysis complementary to those highlighted by the experts during the Expert Meeting may include the contribution of energy services to enhancing energy supply capacity in developing countries to overcome "energy poverty" and the liberalization of developed country energy markets and its possible implications for developing country trade and development perspectives.